S. 979

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

S. 982

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

S. 1012

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

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

S. 1023

At the request of Mr. DORGAN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 1023, a bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

S. 1026

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

S. 1066

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

S. 1071

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

S. RES. 151

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

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

AMENDMENT NO. 1133

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

AMENDMENT NO. 1138

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

AMENDMENT NO. 1139

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

AMENDMENT NO. 1140

At the request of Mr. INHOFE, his name was added as a cosponsor of amendment No. 1140 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1143

At the request of Mr. RISCH, the name of the Senator from Missouri (Mr. BOND) was withdrawn as a cosponsor of amendment No. 1143 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

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

AMENDMENT NO. 1144

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

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. DORGAN, Mr. JOHNSON, and Mr. GRASSLEY):

S. 1086. A bill to amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture, Nutrition, and Forestry.

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

It is no secret that the packing industry in the U.S. has again become increasingly consolidated. In 1985, the four largest packers accounted for 39 percent of all cattle slaughtered in the U.S. Twenty years later, the top four firms controlled over 69 percent of the domestic cattle slaughter and this statistic does not even include the acquisitions that have taken place in the industry since 2007. Being big in agriculture is not bad, but it does present opportunities for a select few to manipulate the market for their own gain. The Livestock Marketing Fairness Act strikes at the heart of one particular anti-competitive practice. Over the years, livestock producers, feeders, and packers have been given a number of new marketing tools for price discovery and hedging risk. One of those tools is the forward contract where a buyer and seller agree to a transaction at a specified point of time in the future. However, certain types of forward contracting agreements have become ripe for price manipulation. This is because a growing number of packing operations own their own livestock or control them through marketing agreements. These firms then can buy from themselves when prices are high and buy from others when prices are low. Captive supplies are animals that packers own and control prior to slaughter. The Livestock Marketing Fairness Act prohibits certain arrangements that provide packers with the opportunity use their captive supplies to manipulate local market prices. First, the legislation requires that forward contracts contain a ''firm base price'' which is derived from an external source. Though not outlined in the legislation, commonly used external sources of price include the live cattle futures market or wholesale beef market. This ensures that both buyers and sellers have a basis for how pricing in a contract will be derived at the time

the contract is agreed upon. Second, the bill requires that forward contracts be traded in open, public markets. This guarantees that multiple buyers and sellers can witness bids as well as offer their own. The Livestock Marketing Fairness Act also ensures that trading of contracts be done in a manner that provides both small and large buyers and sellers access to the market. Contracts are to be traded in sizes approximate to the common number of cattle or pigs transported in a trailer, but the law does not prohibit trading from occurring in multiples of those contracts for larger livestock orders.

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

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

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

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

S. 1086

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Livestock Marketing Fairness Act''.

SEC. 2. PURPOSE.

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

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

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

SEC. 3. LIMITATION ON USE OF ANTI-COMPETITIVE FORWARD CONTRACTS.

(a) IN GENERAL.—Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

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

''SEC. 202. UNLAWFUL PRACTICES.

''(a) IN GENERAL.—It shall be'';

(2) by striking ''to:'' and inserting ''to—'';

(3) by redesignating subsections (a), (b), (c), (d), (e), (f), and (g) as paragraphs (1), (2), (3), (4), (5), (7), and (8), respectively, and indenting appropriately;

(4) in paragraph (7) (as redesignated by paragraph (3)), by designating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and indenting appropriately;

(5) in paragraph (8) (as redesignated by paragraph (3)), by striking ''subdivision (a), (b), (c), (d), or (e)'' and inserting ''paragraph (1), (2), (3), (4), (5), or (6)'';

(6) in each of paragraphs (1), (2), (3), (4), (5), (7), and (8) (as redesignated by paragraph (3)), by striking the first capital letter of the first word in the paragraph and inserting the same letter in the lower case;

(7) in each of paragraphs (1) through (5) (as redesignated by paragraph (3)), by striking ''or'' at the end;

(8) by inserting after paragraph (5) (as redesignated by paragraph (3)) the following:

''(6) except as provided in subsection (c), use, in effectuating any sale of livestock, a forward contract that—

''(A) does not contain a firm base price that may be equated to a fixed dollar amount on the day on which the forward contract is entered into;

''(B) is not offered for bid in an open, public manner under which—

''(i) buyers and sellers have the opportunity to participate in the bid; and

''(ii) buyers and sellers may witness bids that are made and accepted;

''(C) is based on a formula price; or

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

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

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

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

(9) by adding at the end the following:

''(b) ADJUSTMENTS.—The Secretary may adjust the maximum quantity of livestock described in subsection (a)(6)(D) to reflect advances in marketing and transportation capabilities if the adjusted quantity provides reasonable market access for all buyers and sellers.

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

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

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

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

''(2) a packer that is not required to report to the Secretary on each reporting day (as defined in section 212 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635a)) information on the price and quantity of livestock purchased by the packer; or

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

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

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

''(16) FORMULA PRICE.—

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

''(B) EXCLUSION.—The term 'formula price' does not include—

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

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

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

''(A) a specified lot of livestock; or

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

By Mr. KERRY:

S. 1087. A bill to amend the Internal Revenue Code of 1986 to repeal certain tax incentives related to oil and gas; to the Committee on Finance.

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

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

The tax code provides numerous other preferences to the oil and gas industry. This legislation would repeal provisions that do not promote low-carbon energy sources and further our addiction to oil. The Energy Fairness

for America Act would repeal the credit for the crude oil and natural gas produced from marginal wells, expensing of intangible drilling costs and 60-month amortization and capitalized intangible drilling costs, exception from the passive loss rules for working interests in oil and gas properties, and percentage depletion for oil and gas wells. In addition, it would increase the amortization period from two years to seven years for geological and geophysical expenditures incurred by independent producers in connection with oil and gas exploration in the U.S.

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

By Mr. BAUCUS (for himself, Mr. CRAPO, Ms. CANTWELL, Mr. ROBERTS, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. LINCOLN, Mr. HARKIN, Mrs. MURRAY, Mr. PRYOR, Mr. BOND, Mr. JOHNSON, Mr. DORGAN, Mr. WYDEN, Mr. LUGAR, Mrs. MCCASKILL, and Mr. ENZI):

S. 1089. A bill to facilitate the export of United States agricultural commodities and products to Cuba as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000, to establish an agricultural export promotion program with respect to Cuba, to remove impediments to the export to Cuba of medical devices and medicines, to allow travel to Cuba by United States citizens and legal residents, to establish an agricultural export promotion program with respect to Cuba, and for other purposes; to the Committee on Finance.

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

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

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

Here is how I see the facts. Opening Cuba to our exports means money in the pockets of farmers and ranchers across America. Lifting financing and other restrictions on U.S. agriculture could increase U.S. beef exports from states like Montana and Colorado from $1 million to as much as $13 million. Lifting these restrictions could allow agricultural exporters in States like North Dakota and Arkansas to obtain nearly 70 percent of Cuba's wheat market, nearly 40 percent of its rice market, and more than 90 percent of its poultry market. Lifting these restrictions could allow America's farmers and ranchers to export as much as $1.2 billion in total agricultural goods to Cuba.

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

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

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

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

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

By Mr. WYDEN (for himself and Ms. CANTWELL):

S. 1090. A bill to amend the Internal Revenue Code of 1986 to provide tax credit parity for electricity produced from renewable resources; to the Committee on Finance.

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

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

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

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

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

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

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

While I cannot tell you where the next advancement in green energy will

come from, I know that given the right tools and incentives there is no limit to what American ingenuity can achieve. This is why today I am offering a series of proposals to speed up our progress toward a cleaner energy future. My proposals address the spectrum of solutions needed to get there. They start with harnessing the intellectual power of our colleges and universities to invent new energy technologies. They create new incentives for businesses to turn those technologies into new energy products. They give consumers incentives to buy and install those new energy technologies in their homes and businesses.

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

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

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

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

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

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

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

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

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

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

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

One big advantage of renewable energy is that some form of it can be found on every corner, and in every

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

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

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

Last but not least, America not only needs new solutions to our energy problems. It needs a skilled workforce to make them a reality. So, I am also proposing an ''Energy Grant'' Higher Education program to provide $300 million a year to America's colleges and universities to work on regional energy problems. This program is modeled on the highly successful SeaGrant research and education program that has been run by the U.S. Department of Commerce for more than 30 years and the SunGrant program established to research biofuels. The EnergyGrant program would fund groups of colleges and universities to do research and develop education programs aimed at unique opportunities and challenges in each region of the country. Why rely solely on the Federal Government research programs to come up with solutions for regional energy issues when labs and research departments at colleges and universities around the country can contribute to the effort?

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

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

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

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

S. 1090

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 ''Renewable Energy Parity and Investment Remedy Act'' or ''REPAIR Act''.

SEC. 2. TAX CREDIT PARITY FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES.

Subparagraph (A) of section 45(b)(4) of the Internal Revenue Code of 1986 is amended by inserting ''and before 2010'' after ''any calendar year after 2003''.

S. 1091

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 ''Storage Technology of Renewable and Green Energy Act of 2009'' or the ''STORAGE Act of 2009''.

SEC. 2. ENERGY INVESTMENT CREDIT FOR ENERGY STORAGE PROPERTY CONNECTED TO THE GRID.

(a) 20 PERCENT CREDIT ALLOWED.—Subparagraph (A) of section 48(a)(2) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of subclause (IV) of clause (i),

(2) by striking ''clause (i)'' in clause (ii) and inserting ''clause (i) or (ii)'',

(3) by redesignating clause (ii) as clause (iii), and

(4) by inserting after clause (i) the following new clause:

''(ii) 20 percent in the case of qualified energy storage property, and''.

(b) QUALIFIED ENERGY STORAGE PROPERTY.—Subsection (c) of section 48 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(5) QUALIFIED ENERGY STORAGE PROPERTY.—

''(A) IN GENERAL.—The term 'qualified energy storage property' means property—

''(i) which is directly connected to the electrical grid, and

''(ii) which is designed to receive electrical energy, to store such energy, and to convert such energy to electricity and deliver such electricity for sale.

Such term may include hydroelectric pumped storage and compressed air energy storage, regenerative fuel cells, batteries, superconducting magnetic energy storage, flywheels, thermal, and hydrogen storage, or combination thereof.

''(B) MINIMUM CAPACITY.—The term 'qualified energy storage property' shall not include any property unless such property in aggregate—

''(i) has the ability to store at least 2 megawatt hours of energy, and

''(ii) has the ability to have an output of 500 kilowatts of electricity for a period of 4 hours.

''(C) ELECTRICAL GRID.—The term 'electrical grid' means the system of generators, transmission lines, and distribution facilities which—

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

''(ii) are owned by—

''(I) a State or any political subdivision of a State,

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

''(III) any agency, authority, or instrumentality of any one or more of the entities described in subclause (I) or (II), or any corporation which is wholly owned, directly or indirectly, by any one or more of such entities.''.

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

SEC. 3. ENERGY STORAGE PROPERTY CONNECTED TO THE GRID ELIGIBLE FOR NEW CLEAN RENEWABLE ENERGY BONDS.

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

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

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

''(ii) a qualified energy storage property (as defined in section 48(c)(5)), and

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

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

SEC. 4. ENERGY INVESTMENT CREDIT FOR ONSITE ENERGY STORAGE.

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

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

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

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

''(V) qualified onsite energy storage property,''.

(b) QUALIFIED ONSITE ENERGY STORAGE PROPERTY.—Subsection (c) of section 48 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

''(6) QUALIFIED ONSITE ENERGY STORAGE PROPERTY.—

''(A) IN GENERAL.—The term 'qualified onsite energy storage property' means property which—

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

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

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

''(B) MINIMUM CAPACITY.—The term 'qualified onsite energy storage property' shall not include any property unless such property in aggregate—

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

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

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

SEC. 5. CREDIT FOR RESIDENTIAL ENERGY STORAGE EQUIPMENT.

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

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

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

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

''(2) 30 percent of the amount paid or incurred by the taxpayer for qualified residential energy storage equipment installed during such taxable year, and''.

(b) QUALIFIED RESIDENTIAL ENERGY STORAGE EQUIPMENT.—

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

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

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

''(d) QUALIFIED RESIDENTIAL ENERGY STORAGE EQUIPMENT.—For purposes of this section, the term 'qualified residential energy storage equipment' means property—

''(1) which is installed in or on a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121), or on property owned by the taxpayer on which such a dwelling unit is located, and

''(2) which—

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

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

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

S. 1092

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 ''Reenergize America Loan Program Act of 2009''.

SEC. 2. REENERGIZE AMERICA LOAN PROGRAM.

(a) DEFINITIONS.—In this section:

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

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

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

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

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

(6) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

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

(E) an Indian tribe.

(b) ESTABLISHMENT.—There is established within the Department of Energy a revolving loan program to be known as the ''Reenergize America Loan Program''.

(c) ALLOCATIONS TO STATES.—

(1) IN GENERAL.—In carrying out the Program, the Secretary shall allocate funds to States for use in providing zero-interest loans to qualified persons to carry out residential, commercial, industrial, and transportation energy efficiency and renewable generation projects contained in State energy conservation plans submitted and approved under sections 362 and 363 of the Energy Policy and Conservation Act (42 U.S.C. 6322, 6323), respectively.

(2) ADMINISTRATIVE EXPENSES.—A State that receives an allocation of funds under this subsection may impose on each qualified person that receives a loan from the allocated funds of the State administrative fees to cover the costs incurred by the State in administering the loan.

(3) REPAYMENT AND RETURN OF PRINCIPAL.—Return of principal from loans provided by a State may be retained by the State for the purpose of making additional loans pursuant to—

(A) a plan approved by the Secretary under subsection (d); and

(B) such terms and conditions as the Secretary considers appropriate to ensure the financial integrity of the Program.

(d) APPLICATION.—A State that seeks to receive an allocation under this section shall—

(1) submit to the Secretary for review and approval a 5-year plan for the administration and distribution by the State of funds from the allocation, including a description of criteria that the State will use to determine the qualifications of potential borrowers for loans made from the allocated funds;

(2) agree to submit to annual audits with respect to any allocated funds received and distributed by the State; and

(3) reapply for a subsequent allocation at the end of the 5-year period covered by the plan.

(e) ALLOCATION.—In approving plans submitted by the States under subsection (d) and allocating funds among States under this section, the Secretary shall consider—

(1) the likely energy savings and renewable energy potential of the plans,;

(2) regional energy needs; and

(3) the equitable distribution of funds among regions of the United States.

(f) MAXIMUM AMOUNT; TERM.—A loan provided by a State using funds allocated under this section shall be—

(1) in an amount not to exceed $5,000,000; and

(2) for a term of not to exceed 4 years.

(g) REENERGIZE AMERICA LOAN PROGRAM FUND.—

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

(2) TRANSFERS TO FUND.—From any Federal royalties, rents, and bonuses derived from Federal onshore and offshore oil, gas, coal, or alternative energy leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or the Mineral Leasing Act (30 U.S.C. 181 et seq.) that are deposited in the Treasury, and after distribution of any funds described in paragraph (3), there shall be transferred to the Fund $1,000,000,000 for each of fiscal years 2010 through 2020.

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

(A) to States and to the Reclamation Fund under the Mineral Leasing Act (30 U.S.C. 191(a)); and

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

(i) any recipients pursuant to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g));

(ii) the Land and Water Conservation Fund, pursuant to section 2(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–5(c));

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

(iv) the coastal impact assistance program established under section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a).

(4) EXPENDITURES FROM FUND.—

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

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

(5) TRANSFERS OF AMOUNTS.—

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

(B) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(h) FUNDING.—Notwithstanding any other provision of law, for each of fiscal years 2010 through 2020, the Secretary shall use to

carry out the Program such amounts as are available in the Fund.

S. 1093

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Oil Independence, Limiting Subsidies, and Accelerating Vehicle Efficiency Act'' or the ''OILSAVE Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. TAX CREDIT FOR FUEL-EFFICIENT MOTOR VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by inserting after section 30D the following new section:

''SEC. 30E. FUEL-EFFICIENT MOTOR VEHICLE CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount determined under paragraph (2) with respect to any new qualified fuel-efficient motor vehicle placed in service by the taxpayer during the taxable year.

''(2) CREDIT AMOUNT.—With respect to each new qualified fuel-efficient motor vehicle, the amount determined under this paragraph shall be equal to—

''(A) in the case of any vehicle manufactured in model year 2011, the applicable amount determined in accordance with the table contained in paragraph (3), and

''(B) in the case of any passenger automobile or non-passenger automobile manufactured in a model year after 2011, the lesser of—

''(i) the sum of—

''(I) $900, plus

''(II) $100 for each whole mile per gallon in excess of 110 percent of the respective industry-wide average fuel economy standard for such model year for all passenger automobiles and all non-passenger automobiles, or

''(ii) $2,500.

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

''(A) In the case of a passenger automobile which achieves:

''The fuel economy of:	The applicable amount is:
At least 33.2 but less than 34.2 ..	$900.
At least 34.2 but less than 35.2 ..	$1,000.
At least 35.2 but less than 36.2 ..	$1,100.
At least 36.2 but less than 37.2 ..	$1,200.
At least 37.2 but less than 38.2 ..	$1,300.
At least 38.2 but less than 39.2 ..	$1,400.
At least 39.2 but less than 40.2 ..	$1,500.
At least 40.2 but less than 41.2 ..	$1,600.
At least 41.2 but less than 42.2 ..	$1,700.
At least 42.2 but less than 43.2 ..	$1,800.
At least 43.2 but less than 44.2 ..	$1,900.
At least 44.2 but less than 45.2 ..	$2,000.
At least 45.2 but less than 46.2 ..	$2,100.
At least 46.2 but less than 47.2 ..	$2,200.
At least 47.2 but less than 48.2 ..	$2,300.
At least 48.2 but less than 49.2 ..	$2,400.
At least 49.2	$2,500.

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

''The fuel economy of:	The applicable amount is:
At least 26.5 but less than 27.5 ..	$900.
At least 27.5 but less than 28.5 ..	$1,000.
At least 28.5 but less than 29.5 ..	$1,100.
At least 29.5 but less than 30.5 ..	$1,200.
At least 30.5 but less than 31.5 ..	$1,300.
At least 31.5 but less than 32.5 ..	$1,400.
At least 32.5 but less than 33.5 ..	$1,500.
At least 33.5 but less than 34.5 ..	$1,600.
At least 34.5 but less than 35.5 ..	$1,700.
At least 35.5 but less than 36.5 ..	$1,800.
At least 36.5 but less than 37.5 ..	$1,900.
At least 37.5 but less than 38.5 ..	$2,000.
At least 38.5 but less than 39.5 ..	$2,100.
At least 39.5 but less than 40.5 ..	$2,200.
At least 40.5 but less than 41.5 ..	$2,300.
At least 41.5 but less than 42.5 ..	$2,400.
At least 42.5	$2,500.

''(b) NEW QUALIFIED FUEL-EFFICIENT MOTOR VEHICLE.—For purposes of this section, the term 'new qualified fuel-efficient motor vehicle' means a passenger automobile or non-passenger automobile—

''(1) which is treated as a motor vehicle for purposes of title II of the Clean Air Act,

''(2) which—

''(A) in the case of a passenger automobile, achieves a fuel economy of not less than 110 percent of the industry-wide average fuel economy standard for the model year for all passenger automobiles, and

''(B) in the case of a non-passenger automobile, achieves a fuel economy of not less than 110 percent of the industry-wide average fuel economy standard for the model year for all non-passenger automobiles,

''(3) which has a gross vehicle weight rating of less than 14,000 pounds,

''(4) the original use of which commences with the taxpayer,

''(5) which is acquired for use or lease by the taxpayer and not for resale, and

''(6) which is made by a manufacturer during the period beginning with model year 2011 and ending with model year 2020.

''(c) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

''(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under subpart A (other than this section and sections 23, 25D, 30, and 30D) and section 27 for the taxable year.

''(d) OTHER DEFINITIONS.—For purposes of this section—

''(1) MANUFACTURER.—The term 'manufacturer' has the meaning given such term in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(2) MODEL YEAR.—The term 'model year' has the meaning given such term under section 32901(a) of such title 49.

''(3) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

''(4) FUEL ECONOMY; AVERAGE FUEL ECONOMY STANDARD.—The terms 'fuel economy' and 'average fuel economy standard' have the meanings given such terms under section 32901 of such title 49.

''(e) SPECIAL RULES.—

''(1) BASIS REDUCTION.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

''(2) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for a new qualified fuel-efficient motor vehicle shall be reduced by the amount of credit allowed under subsection (a) for such vehicle.

''(3) CREDIT MAY BE TRANSFERRED.—

''(A) IN GENERAL.—A taxpayer may, in connection with the purchase of a new qualified fuel-efficient motor vehicle, transfer any credit allowable under subsection (a) to any person who is in the trade or business of selling new qualified fuel-efficient motor vehicles, but only if such person clearly discloses to such taxpayer, through the use of a window sticker attached to the new qualified fuel-efficient vehicle—

''(i) the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (c)), and

''(ii) a notification that the taxpayer will not be eligible for any credit under section 30, 30B, or 30D with respect to such vehicle unless the taxpayer elects not to have this section apply with respect to such vehicle.

''(B) CONSENT REQUIRED FOR REVOCATION.—Any transfer under subparagraph (A) may be revoked only with the consent of the Secretary.

''(C) REGULATIONS.—The Secretary may prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is claimed once and not retransferred by a transferee.

''(4) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1).

''(5) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(6) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(7) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—A motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(f) TERMINATION.—This section shall not apply to property placed in service after December 31, 2020.''.

(b) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) BUSINESS CREDIT.—Section 38(c)(4)(B) is amended by redesignating clauses (i) through (viii) as clauses (ii) through (ix), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

''(i) the credit determined under section 30E,''.

(2) PERSONAL CREDIT.—

(A) Section 24(b)(3)(B) is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(B) Section 25(e)(1)(C)(ii) is amended by inserting ''30E,'' after ''30D,''.

(C) Section 25B(g)(2) is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

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

(E) Section 904(i) is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(a) is amended by striking ''plus'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', plus'', and by adding at the end the following new paragraph:

''(36) the portion of the new qualified fuel-efficient motor vehicle credit to which section 30E(c)(1) applies.''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 30E(e)(1).''.

(3) Section 6501(m) is amended by inserting ''30E(e)(6),'' after ''30D(e)(4),''.

(4) The table of section for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30D the following new item:

''Sec. 30E. Fuel-efficient motor vehicle credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. 3. CREDIT FOR FUEL SAVINGS COMPONENTS FOR CERTAIN VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45R. CREDIT FOR FUEL SAVINGS COMPONENTS FOR CERTAIN VEHICLES.

''(a) GENERAL RULE.—For purposes of section 38, the fuel savings tax credit determined under this section for the taxable year is an amount equal to the applicable percentage of the amount paid or incurred for 1 or more qualifying fuel savings components placed in service on a qualifying vehicle by the taxpayer during the taxable year.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is equal to the sum of—

''(1) 5 percent, plus

''(2) 5 percentage points (not to exceed 45 percentage points), for each percent in excess of 2 percent by which the fuel economy achieved by the qualifying vehicle with 1 or more qualifying fuel savings components exceeds such qualifying vehicle without such component or components.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFYING FUEL SAVINGS COMPONENT.—The term 'qualifying fuel savings component' means any device or system of devices that—

''(A) is installed on a qualifying vehicle,

''(B) is designed to increase the fuel economy of such vehicle by at least 2 percent, the amount of such increase to be verified by the Administrator of the Environmental Protection Agency under the SmartWay Transport Partnership,

''(C) the original use of which commences with the taxpayer,

''(D) is acquired for use by the taxpayer and not for resale, and

''(E) has not been taken into account for purposes of determining the credit under this section for any preceding taxable year with respect to such qualifying vehicle.

''(2) QUALIFYING VEHICLE.—The term 'qualifying vehicle' means any vehicle subject to transportation fuels regulations under the Clean Air Act.

''(3) FUEL ECONOMY.—The term 'fuel economy' has the meaning given such term under section 32901 of such title 49.

''(d) SPECIAL RULES.—

''(1) NO DOUBLE BENEFIT.—

''(A) REDUCTION IN BASIS.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (a), the basis of such property shall be reduced by the amount of the credit so determined.

''(B) OTHER DEDUCTIONS AND CREDITS.—The amount of any deduction or other credit allowable under this chapter for a qualifying vehicle shall be reduced by the amount of credit allowed under subsection (a) with respect to such vehicle.

''(2) CREDIT MAY BE TRANSFERRED.—

''(A) IN GENERAL.—A taxpayer may, in connection with the purchase of a qualifying fuel savings component, transfer any credit allowable under subsection (a) to any person who is in the trade or business of selling such components, but only if such person clearly discloses to such taxpayer, through the use of a sticker attached to the qualifying fuel savings component, the amount of any credit allowable under subsection (a) with respect to such component.

''(B) CONSENT REQUIRED FOR REVOCATION.—Any transfer under subparagraph (A) may be revoked only with the consent of the Secretary.

''(C) REGULATIONS.—The Secretary may prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is claimed once and not retransferred by a transferee.

''(3) ELECTION NOT TO CLAIM CREDIT.—No credit shall be allowed under subsection (a) for any component if the taxpayer elects to not have this section apply to such component.

''(e) TERMINATION.—This section shall not apply to property placed in service after December 31, 2020.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', plus'' , and by adding at the end the following new paragraph:

''(37) the fuel savings tax credit determined under section 45R(a).''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45Q the following new item:

''Sec. 45R. Credit for fuel savings components for certain vehicles and engines.''.

(2) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (37), by striking the period at the end of paragraph (38) and inserting '', and'', and by adding at the end the following:

''(39) in the case of a component with respect to which a credit was allowed under section 45R, to the extent provided in section 45R(d)(1)(A).''.

(3) Section 6501(m), as amended by this Act, is amended by inserting ''45R(d)(3)'' after ''45H(g)''.

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

SEC. 4. INCREASE IN GAS GUZZLER TAX.

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

''(a) IMPOSITION OF TAX.—

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

''(A) in the case of any automobile manufactured in model year 2011, the applicable tax amount determined in accordance with the table contained in paragraph (2), and

''(B) in the case of any automobile manufactured in a model year after 2011, if the fuel economy of the model type in which such automobile falls is less than 80 percent of the industry-wide average fuel economy standard for such model year for all automobiles, an amount equal to the lesser of—

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

''(I) $1,000 for the first mile per gallon reduction, or

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

''(ii) $22,737.

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

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

''If the fuel economy of the model type in which the automobile falls is:	The applicable tax amount is:
At least 24.2	$0.
At least 23.2 but less than 24.2 ..	$1,000.
At least 22.2 but less than 23.2 ..	$1,250.
At least 21.2 but less than 22.2 ..	$1,563.
At least 20.2 but less than 21.2 ..	$1,953.
At least 19.2 but less than 20.2 ..	$2,441.
At least 18.2 but less than 19.2 ..	$3,052.
At least 17.2 but less than 18.2 ..	$3,815.
At least 16.2 but less than 17.2 ..	$4,768.
At least 15.2 but less than 16.2 ..	$5,960.
At least 14.2 but less than 15.2 ..	$7,451.
At least 13.2 but less than 14.2 ..	$9,313.
At least 12.2 but less than 13.2 ..	$11,642.
At least 11.2 but less than 12.2 ..	$14,552.
At least 10.2 but less than 11.2 ..	$18,190.
Less than 10.2	$22,737.''.

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

''(8) AVERAGE FUEL ECONOMY STANDARD.—The term 'average fuel economy standard' has the meaning given such term under section 32901 of title 49, United States Code.''.

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

SEC. 5. INCREASE IN MANUFACTURER CAFE PENALTIES.

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

(1) by striking ''$5'' in subsection (b) and inserting ''$50'', and

(2) by striking ''$10'' in subsection (c)(1)(B) and inserting ''$100''.

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

SEC. 6. DEPLOYMENT OF LOW-GREENHOUSE GAS AND FUEL-SAVING TECHNOLOGIES.

Section 756 of the Energy Policy Act of 2005 (42 U.S.C. 16104) is amended—

(1) by striking the section heading and all that follows through the end of subsection (b) and inserting the following:

''SEC. 756. DEPLOYMENT OF LOW-GREENHOUSE GAS AND FUEL-SAVING TECHNOLOGIES.

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term 'advanced truck stop electrification system' means a stationary system that delivers heat, air conditioning, electricity, or communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle with, or for delivery, of those services.

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

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

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

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

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

''(A) is used to reduce idling; and

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

''(6) LONG-DURATION IDLING.—

''(A) IN GENERAL.—The term 'long-duration idling' means the operation of a main drive engine or auxiliary refrigeration engine, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

''(B) EXCLUSIONS.—The term 'long-duration idling' does not include the operation of a main drive engine or auxiliary refrigeration engine during a routine stoppage associated with traffic movement or congestion.

''(7) LOW-GREENHOUSE GAS AND FUEL-SAVING TECHNOLOGY.—The term 'low-greenhouse gas and fuel-saving technology' means any device, system of devices, strategies, or equipment that—

''(A) reduces greenhouse gas emissions; or

''(B) improves fuel efficiency.

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

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—Not later than 90 days after the date of enactment of the OILSAVE Act, the Administrator, in consultation with the Secretary of Energy, shall implement, through the SmartWay Transport Partnership of the Environmental Protection Agency, a program to support deployment of low-greenhouse gas and fuel-saving technologies.

''(B) PRIORITY.—The Administrator shall give priority to the deployment of low-greenhouse gas and fuel-saving technologies that meet SmartWay performance thresholds developed under paragraph (2)(B).

''(2) TECHNOLOGY DESIGNATION AND DEPLOYMENT.—The Administrator shall—

''(A) develop measurement protocols to evaluate the fuel consumption and greenhouse gas performance of transportation technologies, including technologies for passenger transport and goods movement;

''(B) develop SmartWay performance thresholds that can be used to certify, verify, or designate low-greenhouse gas and fuel-saving technologies that provide superior environmental performance for each mode of passenger transportation and goods movement; and

''(C)(i) publish a list of low-greenhouse gas and fuel-saving technologies;

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

''(iii) identify those technologies that meet the SmartWay performance thresholds developed under subparagraph (B).

''(3) PROMOTION AND DEPLOYMENT OF TECHNOLOGIES.—The Administrator shall—

''(A) implement partnership and recognition programs to promote best practices and drive demand for fuel-efficient, low-greenhouse gas transportation performance;

''(B) promote the availability of and encourage the adoption of technologies that meet the SmartWay performance thresholds developed under paragraph (2)(B);

''(C) publicize the availability of financial incentives (such as Federal tax incentives, grants, and low-cost loans) for the deployment of low-greenhouse gas and fuel-saving technologies; and

''(D) deploy low-greenhouse gas and fuel-saving technologies through grant and loan programs.

''(4) STAKEHOLDER CONSULTATION.—

''(A) IN GENERAL.—The Administrator shall solicit the comments of interested parties prior to establishing a new or revising an existing SmartWay technology category, measurement protocol, or performance threshold.

''(B) NOTICE.—On adoption of a new or revised technology category, measurement protocol, or performance threshold, the Administrator shall publish a notice and explanation of any changes and, if appropriate, responses to comments submitted by interested parties.

''(5) FREIGHT PARTNERSHIP.—

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

''(B) ADMINISTRATION.—The Administrator shall—

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

''(ii) publish a comprehensive greenhouse gas and fuel efficiency performance index of freight modes (including rail, trucking, marine, and other modes of transporting goods) and individual freight companies so that shippers can choose to deliver the goods of the shippers most efficiently with minimum greenhouse gas emissions;

''(iii) develop tools for—

''(I) freight carriers to calculate and improve the fuel efficiency and greenhouse gas performance of the carriers; and

''(II) shippers—

''(aa) to calculate the fuel and greenhouse gas impacts of moving the products of the shippers; and

''(bb) to evaluate the relative impacts from transporting the goods of the shippers by different modes and carriers; and

''(iv) recognize participating shipper and carrier companies that demonstrate advanced practices and achieve superior levels of fuel efficiency and greenhouse gas performance.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection $19,500,000 for each of fiscal years 2010 through 2020.''; and

(2) by striking subsection (d) and inserting the following:

''(d) IMPROVING FREIGHT GREENHOUSE GAS PERFORMANCE DATABASES.—The Secretary of Commerce, in consultation with the Administrator, shall—

''(1)(A) define and collect data on the physical and operational characteristics of the truck fleet of the United States, with special emphasis on data relating to fuel efficiency and greenhouse gas performance to provide data for the performance index published under subsection (b)(5)(B)(ii); and

''(B) publish the data described in subparagraph (A) through the Vehicle Inventory and Use Survey as soon as practicable after the date of enactment of the OILSAVE Act, and at least every 5 years thereafter, as part of the economic census required under title 13, United States Code; and

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

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

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

''(A) the measurement protocols;

''(B) the SmartWay performance thresholds; and

''(C) a list of low-greenhouse gas and fuel-saving technologies; and

''(2) estimated greenhouse gas emissions and fuel savings from the program.''.

S. 1094

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 ''Renewable Energy Alternative Production Act'' or the ''REAP Act''.

SEC. 2. CREDIT FOR PRODUCTION OF RENEWABLE ENERGY.

(a) IN GENERAL.—Section 45 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) CREDIT ALLOWED FOR PRODUCTION OF NON-ELECTRIC ENERGY.—

''(1) IN GENERAL.—The credit allowed under subsection (a) shall be increased by an amount equal to the product of—

''(A) the dollar amount determined under paragraph (2), and

''(B) each million British thermal units (mmBtu) of qualified fuel which is—

''(i) produced by the taxpayer—

''(I) from qualified energy resources, and

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

''(ii) not used for the production of electricity, and

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

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

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

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

''(A) QUALIFIED FUEL.—The term 'qualified fuel' means an energy product which is produced, extracted, converted, or synthesized from a qualified energy resource through a

controlled process, including pyrolysis, electrolysis, and anaerobic digestion, which results in a product consisting of methane, synthesis gas, hydrogen, steam, manufactured cellulosic fuels, or any other form of energy provided under regulations by the Secretary and which is used solely as a source of energy.

''(B) ALLOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVES.—Rules similar to the rules of subsection (e)(11) shall apply for purposes of paragraph (1).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 45 of the Internal Revenue Code of 1986 is amended by striking ''**ELECTRICITY**'' and inserting ''**ENERGY**''.

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

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

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

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

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

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

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

(b) QUALIFIED ONSITE RENEWABLE NON-ELECTRIC ENERGY PRODUCTION PROPERTY.—Subsection (c) of section 48 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(5) QUALIFIED ONSITE RENEWABLE NON-ELECTRIC ENERGY PRODUCTION PROPERTY.—

''(A) IN GENERAL.—The term 'qualified onsite renewable non-electric energy production property' means property which produces qualified fuel—

''(i) from qualified energy resources,

''(ii) not used for the production of electricity, and

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

''(B) DEFINITIONS.—For purposes of this paragraph—

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

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

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

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

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

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

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

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

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

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

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

S. 1095

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''America's Low-Carbon Fuel Standard Act of 2009''.

SEC. 2. LOW-CARBON FUEL PROGRAM.

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

''(o) LOW-CARBON FUEL PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

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

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

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

''Calendar year:	**Applicable percentage less than baseline lifecycle greenhouse gas emissions:**
2015	20.0
2016	21.5
2017	23.0
2018	24.5
2019	26.0
2020	27.5
2021	29.0
2022	30.5
2023	32.0
2024	33.5
2025	35.0
2026	36.5
2027	38.0
2028	39.5
2029	41.0
2030	42.5
2031 and thereafter	Percentage determined under paragraph (2)(B)(ii).

''(D) RENEWABLE BIOMASS.—The term 'renewable biomass' means each of the following:

''(i) Planted crops and crop residue harvested from agricultural land cleared or cultivated at any time prior to December 19, 2007, that is either actively managed or fallow, and nonforested.

''(ii) Planted trees, bioenergy crops, and tree residue from actively managed tree plantations on non-Federal land cleared at any time prior to December 19, 2007, including land belonging to an Indian tribe or an Indian individual, that is held in trust by the United States or subject to a restriction against alienation imposed by the United States.

''(iii) Slash, brush, and those trees that are byproducts of ecological restoration, disease or insect infestation control, or hazardous fuels reduction treatments and do not exceed the minimum size standards for sawtimber, harvested—

''(I) in ecologically 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;

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

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

''(ff) National Monuments.

''(iv) Animal waste material and animal byproducts.

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

''(vi) Biomass from land in any ownership obtained from the immediate vicinity of

buildings and other areas regularly occupied by people, or of public infrastructure, at risk from wildfire.

''(vii) Algae.

''(viii) Municipal solid waste, including separated yard waste or food waste, including recycled cooking and trap grease.

''(E) RENEWABLE FUEL.—The term 'renewable fuel' means fuel that is—

''(i) produced from renewable biomass; and

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

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

''(2) PROGRAM.—

''(A) REGULATIONS.—

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

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

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

''(II) shall not—

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

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

''(B) APPLICABLE VOLUMES.—

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

''Calendar year:	**Applicable percentage of transportation fuel sold that is low-carbon fuel:**
2015	10.0
2016	11.5
2017	13.0
2018	14.5
2019	16.0
2020	17.5
2021	19.0
2022	20.5
2023	22.0
2024	23.5
2025	25.0
2026	26.5
2027	28.0
2028	29.5
2029	31.0
2030	32.5.

''(ii) SUBSEQUENT CALENDAR YEARS.—

''(I) IN GENERAL.—For the purposes of subparagraph (A), the applicable percentage of the transportation fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, that is low-carbon fuel for calendar year 2031 and each subsequent calendar year shall be determined by the Administrator, in consultation with the Secretary of Energy, based on a review of the implementation of the program during calendar years specified in the tables established under this subsection, and an analysis of—

''(aa) the impact of the production and use of low-carbon fuel on the environment, including on air quality, climate change, conversion of wetland, ecosystems, wildlife habitat, water quality, and water supply;

''(bb) the impact of low-carbon fuel on the energy security of the United States;

''(cc) the expected annual rate of future commercial production of low-carbon fuel;

''(dd) the impact of low-carbon fuel on the infrastructure of the United States, including deliverability of materials, goods, and products other than low-carbon fuel, and the sufficiency of infrastructure to deliver and use low-carbon fuel;

''(ee) the impact of the use of low-carbon fuel on the cost to consumers of transportation fuel and on the cost to transport goods; and

''(ff) the impact of the use of low-carbon fuel on other factors, including job creation, the price and supply of agricultural commodities, rural economic development, and food prices.

''(II) DEADLINE.—The Administrator shall promulgate rules establishing the applicable volumes under this clause not later than 14 months before the first year for which the applicable percentage will apply.

''(3) APPLICABLE PERCENTAGES.—

''(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2005 through 2021, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate, with respect to the following calendar year, of the volumes of transportation fuel and low-carbon fuel projected to be sold or introduced into commerce in the United States.

''(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

''(i) IN GENERAL.—Not later than November 30 of each of calendar years 2015 through 2029, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the low-carbon fuel obligation that ensures that the requirements of paragraph (2) are met.

''(ii) REQUIRED ELEMENTS.—The low-carbon fuel obligation determined for a calendar year under clause (i) shall—

''(I) be applicable to refineries, blenders, and importers, as appropriate;

''(II) be expressed in terms of a volume percentage of transportation fuel sold or introduced into commerce in the United States; and

''(III) subject to subparagraph (C), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

''(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments to prevent the imposition of redundant obligations on any person specified in subparagraph (B)(ii)(I).

''(4) MODIFICATION OF GREENHOUSE GAS REDUCTION PERCENTAGES.—

''(A) IN GENERAL.—In the regulations promulgated under paragraph (2)(A)(i), the Administrator may adjust the required percentage reductions in lifecycle greenhouse gas emissions for low-carbon fuel to a lower percentage if the Administrator determines that generally the reduction is not commercially feasible for low-carbon fuel made using a variety of feedstocks, technologies, and processes to meet the applicable reduction.

''(B) AMOUNT OF ADJUSTMENT.—In promulgating regulations under this paragraph, the specified percent reduction in greenhouse gas emissions from low-carbon fuel may not be reduced more than 10 percentage points below the percentage otherwise required under this subsection.

''(C) ADJUSTED REDUCTION LEVELS.—

''(i) IN GENERAL.—An adjustment in the percentage reduction in greenhouse gas levels shall be the minimum practicable adjustment for low-carbon fuel.

''(ii) MAXIMUM ACHIEVABLE LEVEL.—The adjusted greenhouse gas reduction shall be established at the maximum achievable level, taking cost in consideration, allowing for the use of a variety of feedstocks, technologies, and processes.

''(D) SUBSEQUENT ADJUSTMENTS.—

''(i) IN GENERAL.—After the Administrator has promulgated a final rule under paragraph (2)(A)(i) with respect to the method of determining lifecycle greenhouse gas emissions, the Administrator may not adjust the percent greenhouse gas reduction levels unless the Administrator determines that there has been a significant change in the analytical basis used for determining the lifecycle greenhouse gas emissions.

''(ii) CRITERIA AND STANDARDS.—If the Administrator makes the determination that an adjustment is required, the Administrator may adjust the percent reduction levels through rulemaking using the criteria and standards established under this paragraph.

''(iii) 5-YEAR REVIEW.—If the Administrator makes any adjustment under this paragraph, not later than 5 years thereafter, the Administrator shall review and revise (based on the same criteria and standards as required for the initial adjustment) the level as adjusted by the regulations.

''(5) CREDIT PROGRAM.—

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

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

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

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

''(i) achieves compliance with the low-carbon fuel requirement under paragraph (2); and

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

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

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

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

''(6) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of this subsection in whole or in part on petition by 1 or more States, by any person subject to the requirements of this subsection, or by the Administrator on the Administrator's own motion, by reducing the national percentage of low-carbon fuel required under paragraph (2)—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply of low-carbon fuel.

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

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

''(D) MODIFICATION OF APPLICABLE PERCENTAGES.—

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

''(ii) ADMINISTRATION.—In promulgating the regulations, the Administrator shall comply with the processes, criteria, and standards established under paragraph (2)(B)(ii).

''(7) LOW-CARBON MARKET CONCENTRATION ANALYSIS.—

''(A) ANALYSIS.—

''(i) IN GENERAL.—Not later than January 1, 2015, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the low-carbon fuel production, import, and distribution industries using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price-setting and other anticompetitive behavior.

''(ii) SCORING.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

''(B) REPORT.—Not later than December 1, 2015, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).

''(8) PERIODIC REVIEWS.—To allow for the appropriate adjustment of the requirements described in paragraph (2)(B), the Administrator shall conduct periodic reviews of—

''(A) existing technologies;

''(B) the feasibility of achieving compliance with the requirements; and

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

''(9) EFFECT ON OTHER PROVISIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), nothing in this subsection, or regulations promulgated under this subsection, affects the regulatory status of carbon dioxide or any other greenhouse gas, or expands or limits regulatory authority regarding carbon dioxide or any other greenhouse gas, for purposes of other provisions (including section 165) of this Act.

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

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

SEC. 3. TRANSITION PROVISIONS.

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

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

''(A) ADDITIONAL RENEWABLE FUEL.—

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

''(I) is—

''(aa) produced from renewable biomass; or

''(bb) low-carbon fuel;

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

''(aa) transportation fuel;

''(bb) home heating oil; or

''(cc) aviation jet fuel; and

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

(2) by redesignating subparagraphs (I) through (L) as subparagraphs (J) through (M), respectively; and

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

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

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

''(A) CREDITS FOR ADDITIONAL RENEWABLE FUEL.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of the America's Low-Carbon Fuel Standard Act of 2009, the Administrator shall issue regulations providing—

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

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

''(ii) INCREASED CREDIT.—For each of calendar years 2012 through 2014, the Administrator shall increase the amount of the credit provided under clause (i) in proportion to the extent to which the lifecycle greenhouse gas emissions of the additional renewable fuel is less than baseline lifecycle greenhouse gas emissions.''.

S. 1096

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

SECTION 1. ENERGYGRANT COMPETITIVE EDUCATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy, acting through the Director appointed under subsection (c).

(3) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

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

(b) ESTABLISHMENT.—The Secretary shall establish and carry out a program to awards grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (d) to conduct research, extension, and education programs relating to the energy needs of the regions.

(c) DIRECTOR.—The Secretary shall appoint a Director to carry out the program established under this section.

(d) GRANTS.—

(1) IN GENERAL.—The Secretary shall use amounts made available under this section to award grants, on a competitive basis, to each consortium of institutions of higher education located in each of at least 6 regions established by the Secretary that, collectively, cover all States.

(2) MANNER OF DISTRIBUTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in making grants for a fiscal year under this section, the Secretary shall award grants to each consortium of institutions of higher education in equal amounts for each region of not less than $50,000,000 for each region.

(B) TERRITORIES AND POSSESSIONS.—The Secretary may adjust the amount of grants awarded to a consortium of institutions of higher education in a region under this section if the region contains territories or possessions of the United States.

(3) PLANS.—As a condition of an initial grant under this section, a consortium of institutions of higher education in a region shall submit to the Secretary for approval a plan that—

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

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

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

(e) USE OF FUNDS.—

(1) COMPETITIVE GRANTS.—

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

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

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

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

(iv) the accelerated deployment of efficient-energy technologies in new and existing buildings and in manufacturing facilities.

(B) ADMINISTRATION.—

(i) IN GENERAL.—Subject to clauses (ii) through (vi), the Secretary shall make grants under this paragraph in accordance with section 989 of the Energy Policy Act of 2005 (42 U.S.C. 16353).

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

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

(iv) COST-SHARING REQUIREMENT.—As a condition of receiving a grant under this paragraph, the Secretary shall require the recipient of the grant to share costs relating to the program that is the subject of the grant in accordance with section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

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

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

(C) FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.—

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

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

(2) ADMINISTRATIVE EXPENSES.—A consortium of institutions of higher education may use up to 15 percent of the funds described in subsection (d) to pay administrative and indirect expenses incurred in carrying out paragraph (1), unless otherwise approved by the Secretary.

(f) GRANT INFORMATION ANALYSIS CENTER.—A consortium of institutions of higher education in a region shall maintain an Energy Analysis Center at 1 or more of the institutions of higher education to provide the institutions of higher education in the region with analysis and data management support.

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

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

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

(1) to avoid duplication of efforts; and

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

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

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

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

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

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

S. 1097

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Community College Energy Training Act of 2009''.

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

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

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

(2) primarily awards associate degrees.

(b) WORKFORCE TRAINING AND EDUCATION IN SUSTAINABLE ENERGY.—From funds made available under subsection (d), the Secretary of Energy, in coordination with the Secretary of Labor, shall carry out a joint sustainable energy workforce training and education program. In carrying out the program, the Secretary of Energy, in coordination with the Secretary of Labor, shall award grants to community colleges to provide workforce training and education in industries and practices such as—

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

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

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

(4) water and energy conservation;

(5) recycling and waste reduction; and

(6) sustainable agriculture and farming.

(c) AWARD CONSIDERATIONS.—Of the funds made available under subsection (d) for a fiscal year, not less than one-half of such funds shall be awarded to community colleges with existing (as of the date of the award) sustainability programs that lead to certificates or degrees in 1 or more of the industries and practices described in paragraphs (1) through (6) of subsection (b).

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

S. 1098

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''EnergySmart Transport Corridors Act of 2009''.

SEC. 2. ENERGYSMART TRANSPORT CORRIDORS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) INTERSTATE SYSTEM.—The term ''Interstate System'' has the meaning given the term in section 101(a) of title 23, United States Code.

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

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

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

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

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

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

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

(4) coordinating and expanding intermodal shipment capabilities;

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

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

(d) DESIGNATION OF CORRIDORS.—

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

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

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

(B) other surface transportation modes.

(3) ADVISORY COMMITTEES.—

(A) IN GENERAL.—The Secretary, in consultation with the Governors of the States in which EnergySmart transport corridors are to be located, may establish advisory committees to assist in the designation of individual EnergySmart transport corridors.

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

(i) freight and trucking companies;

(ii) vehicle and vehicle equipment manufacturers and retailers;

(iii) independent owners and operators;

(iv) conventional and alternative fuel providers; and

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

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

(f) GRANTS.—In carrying out the Program, the Secretary may provide grants to States to assist in the planning, designation, development, and maintenance of EnergySmart transport corridors.

(g) ANNUAL REPORT.—Each fiscal year, the Secretary shall submit to the appropriate committees of Congress a report describing activities carried out under the Program during the preceding fiscal year.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $25,000,000 for each of fiscal years 2010 through 2015.

SEC. 3. REDUCTION OF ENGINE IDLING.

Section 756(b)(4)(B) of the Energy Policy Act of 2005 (42 U.S.C. 16104(b)(4)(B)) is amended by striking ''for fiscal year 2008'' each place it appears in clauses (i) and (ii) and inserting ''for each of fiscal years 2008 through 2015''.

By Mr. COBURN (for himself, Mr. BURR, Mr. BUNNING, Mr. CHAMBLISS, Mr. ALEXANDER, and Mr. INHOFE):

S. 1099. A bill to provide comprehensive solutions for the health care system of the United States, and for other purposes; to the Committee on Finance.

Mr. BURR. Mr. President, I rise today to speak on the pressing issue of health care in America. Millions of Americans go without health insurance each year. Especially during these tough economic times, many families are looking to Washington to fix the health care crisis in this country.

This year, Congress is poised to make significant changes to our health care system. Ultimately, the American people want solutions that work. In that vein I am pleased to join today with my colleague, Senator COBURN, to introduce, S. 1099, the Patients' Choice Act. It will start to build a health care system that is responsive to patients' needs and conscious of their budgets.

As we developed the framework of the Patients' Choice Act, we had to think about what would truly transform the failing health care system in America right now. Typically, the problems with our health care system relate to cost, quality, and our inability to make important lifestyle interventions before treatable symptoms become chronic conditions. With that thought in mind, Senator COBURN and I set out to reform our health care system so it met the following requirements. We believe that any truly transformational health care plan must guarantee that every American can get affordable coverage.

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

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

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

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

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

It must be sustainable so that it will be there for future generations.

We believe the Patient's Choice Act will meet all of these requirements. The bill focuses on 6 key areas: preventing disease and promoting healthier lifestyles; creating affordable and accessible health insurance options; equalizing the tax treatment of health care; establishing transparency in health care price and quality; and ensuring compensation for injured patients.

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

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

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

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

Last year, the Homeland Security and Governmental Affairs Committee held a hearing on this legislation, but time ran out before we were able to move the measure to the Senate floor.

I also want to thank my former cosponsor, Senator Gordon Smith of Oregon, with whom I and more than 20 other Senators introduced identical legislation in the 110th Congress. We expect about 20 cosponsors again this year, and I want to express my appreciation to them for helping us get an early enough start in the 111th Congress so that we can pass the bill, hopefully, this year.

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

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

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

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

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

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

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

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

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

The experts tell us that 19 percent of an employee's compensation comes in the form of benefits, including benefits for family members. Employees who do not get benefits for their families are,

therefore, not being paid equally. Of course, the supporters of this legislation understand that covering domestic partners will add some increment to the total cost of providing federal employee benefits. And we understand that we have to be particularly careful about government spending right now and perform rigorous cost benefit analyses of all, not just new, federal expenditures.

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

Among the many stories I have heard about the impact of this inequality on real people, I particularly remember the words of Michael Guest, who was ambassador to Romania in the Bush Administration and Dean of the Foreign Service Institute before he left public service. In his resignation letter, Mr. Guest made a moving and eloquent case for extending benefits to same sex partners. I believe Ambassador Guest was the first publicly gay man to be confirmed for an U.S. ambassadorship from the U.S. When he resigned the Foreign Service in 2007, he said, and I quote here from his farewell address to his colleagues ''. . . I have felt compelled to choose between obligations to my partner—who is my family—and service to my country. That anyone should have to make that choice is a stain on the Secretary's leadership and a shame for this institution and our country.''

Those are convincing words from a talented and loyal former public servant—who once described the Foreign Service as the career he was ''born for . . . what I was always meant to do.'' It is a great loss to the nation that he felt compelled to leave the Foreign Service—particularly at a time when our nation so desperately needs talented diplomats to help meet the challenges we face abroad. He may have left public service for many reasons—but one of them should not have been that his federal employee benefits did not allow him to care for the needs of his family in an adequate manner.

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

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

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

S. 1102

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 ''Domestic Partnership Benefits and Obligations Act of 2009''.

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

(a) IN GENERAL.—An employee who has a domestic partner and the domestic partner of the employee shall be entitled to benefits available to, and shall be subject to obligations imposed upon, a married employee and the spouse of the employee.

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

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

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

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

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

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

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

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

(c) DISSOLUTION OF PARTNERSHIP.—

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

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

(3) OTHER DISSOLUTION OF PARTNERSHIP.—

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

(B) EXCEPTION.—In a case in which a domestic partnership dissolves by a method other than death of the employee or domestic partner of the employee, the former domestic partner of the employee shall be entitled to benefits available to, and shall be subject to obligations imposed upon, a former spouse.

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

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

(f) REGULATIONS AND ORDERS.—

(1) OFFICE OF PERSONNEL MANAGEMENT.—Not later than 6 months after the date of enactment of this Act, the Office of Personnel Management shall promulgate regulations to implement section 2 (b) and (c).

(2) OTHER EXECUTIVE BRANCH REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the President or designees of the President shall promulgate regulations to implement this Act with respect to benefits and obligations administered by agencies or other entities of the executive branch.

(3) OTHER REGULATIONS AND ORDERS.—Not later than 6 months after the date of enactment of this Act, each agency or other entity or official not within the executive branch that administers a program providing benefits or imposing obligations shall promulgate regulations or orders to implement this Act with respect to the program.

(4) PROCEDURE.—Regulations and orders required under this subsection shall be promulgated after notice to interested persons and an opportunity for comment.

(g) DEFINITIONS.—In this Act:

(1) BENEFITS.—The term ''benefits'' means—

(A) health insurance and enhanced dental and vision benefits, as provided under chapters 89, 89A, and 89B of title 5, United States Code;

(B) retirement and disability benefits and plans, as provided under—

(i) chapters 83 and 84 of title 5, United States Code;

(ii) chapter 8 of the Foreign Service Act of 1980 (22 U.S.C. 4041 et seq.); and

(iii) the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. chapter 38);

(C) family, medical, and emergency leave, as provided under—

(i) subchapters III, IV, and V of chapter 63 of title 5, United States Code;

(ii) the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), insofar as that Act applies to the Government Accountability Office and the Library of Congress;

(iii) section 202 of the Congressional Accountability Act of 1995 (2 U.S.C. 1312); and

(iv) section 412 of title 3, United States Code;

(D) Federal group life insurance, as provided under chapter 87 of title 5, United States Code;

(E) long-term care insurance, as provided under chapter 90 of title 5, United States Code;

(F) compensation for work injuries, as provided under chapter 81 of title 5, United States Code;

(G) benefits for disability, death, or captivity, as provided under—

(i) sections 5569 and 5570 of title 5, United States Code;

(ii) section 413 of the Foreign Service Act of 1980 (22 U.S.C. 3973); and

(iii) part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.), insofar as that part applies to any employee;

(H) travel, transportation, and related payments and benefits, as provided under—

(i) chapter 57 of title 5, United States Code;

(ii) chapter 9 of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.); and

(iii) section 1599b of title 10, United States Code; and

(I) any other benefit similar to a benefit described under subparagraphs (A) through (H) provided by or on behalf of the United States to any employee.

(2) DOMESTIC PARTNER.—The term ''domestic partner'' means an adult unmarried person living with another adult unmarried person of the same sex in a committed, intimate relationship.

(3) EMPLOYEE.—The term ''employee''—

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

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

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

(5) UNIFORMED SERVICES.—The term ''uniformed services'' has the meaning given under section 2101(3) of title 5, United States Code.

SEC. 3. EFFECTIVE DATE.

This Act shall—

(1) with respect to the provision of benefits and obligations, take effect 6 months after the date of enactment of this Act; and

(2) apply to any individual who is employed as an employee on or after the date of enactment of this Act.

DOMESTIC PARTNERSHIP BENEFITS AND OBLIGATIONS ACT OF 2009

SUMMARY

Under the Domestic Partnership Benefits and Obligations Act of 2009, federal employees who have same-sex domestic partners will be entitled to the same employment benefits that are available to married federal employees and their spouses. Federal employees and their domestic partners will also be subject to the same employment-related obligations that are imposed on married employees and their spouses.

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

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

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

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

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

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

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

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

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

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

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

This settlement is widely supported in the region and it is time to move swiftly to enact this legislation. The State of New Mexico deserves recognition for actively pursuing a settlement of this matter and committing significant resources so that the Federal government does not bear the entire cost of the settlement. The bill is critical to New Mexico's future since it provides certainty in allocating water in a perennially water-short area of the state. It also helps address a long-neglected responsibility of the Federal Government to protect the rights and interests of these Pueblos. I look forward to working with my colleagues in the Senate as well as the House of Representatives to enact this legislation as soon as possible.

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

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

S. 1105

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Aamodt Litigation Settlement Act''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) AAMODT CASE.—The term ''Aamodt Case'' means the civil action entitled State of New Mexico, ex rel. State Engineer and United States of America, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo de San Ildefonso, and Pueblo de Tesuque v. R. Lee Aamodt, et al., No. 66 CV 6639 MV/LCS (D.N.M.).

(2) ACRE-FEET.—The term ''acre-feet'' means acre-feet of water per year.

(3) AUTHORITY.—The term ''Authority'' means the Pojoaque Basin Regional Water Authority described in section 9.5 of the Settlement Agreement or an alternate entity acceptable to the Pueblos and the County to operate and maintain the diversion and treatment facilities, certain transmission pipelines, and other facilities of the Regional Water System.

(4) CITY.—The term ''City'' means the city of Santa Fe, New Mexico.

(5) COST-SHARING AND SYSTEM INTEGRATION AGREEMENT.—The term ''Cost-Sharing and System Integration Agreement'' means the agreement to be executed by the United States, the State, the Pueblos, the County, and the City that—

(A) describes the location, capacity, and management (including the distribution of water to customers) of the Regional Water System; and

(B) allocates the costs of the Regional Water System with respect to—

(i) the construction, operation, maintenance, and repair of the Regional Water System;

(ii) rights-of-way for the Regional Water System; and

(iii) the acquisition of water rights.

(6) COUNTY.—The term ''County'' means Santa Fe County, New Mexico.

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

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

(A) receive water distributed by the Authority; and

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

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

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

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

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

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

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

(13) POJOAQUE BASIN.—

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

(i) the Rio Pojoaque; or

(ii) the 2 unnamed arroyos immediately south; and

(iii) 2 arroyos (including the Arroyo Alamo) that are north of the confluence of the Rio Pojoaque and the Rio Grande.

(B) INCLUSION.—The term ''Pojoaque Basin'' includes the San Ildefonso Eastern Reservation recognized by section 8 of Public Law 87–231 (75 Stat. 505).

(14) PUEBLO.—The term ''Pueblo'' means each of the pueblos of Nambe, Pojoaque, San Ildefonso, or Tesuque.

(15) PUEBLOS.—The term ''Pueblos'' means collectively the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque.

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

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

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

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

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

(II) within the exterior boundaries of any territory set aside for the Pueblo by law, executive order, or court decree;

(C) owned by a Pueblo or held by the United States in trust for the benefit of a Pueblo outside the Pojoaque Basin that is located within the exterior boundaries of the Pueblo as recognized and confirmed by a patent issued under the Act of December 22, 1858 (11 Stat. 374, chapter V); or

(D) within the exterior boundaries of any real property located outside the Pojoaque Basin set aside for a Pueblo by law, executive order, or court decree, if the land is within or contiguous to land held by the United States in trust for the Pueblo as of January 1, 2005.

(17) PUEBLO WATER FACILITY.—

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

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

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

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

(II) described in the Operating Agreement.

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

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

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

(18) REGIONAL WATER SYSTEM.—

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

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

(19) SAN JUAN-CHAMA PROJECT.—The term ''San Juan-Chama Project'' means the Project authorized by section 8 of the Act of June 13, 1962 (76 Stat. 96, 97), and the Act of April 11, 1956 (70 Stat. 105).

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

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

(22) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the stipulated and binding agreement among the State, the Pueblos, the United States, the County, and the City dated January 19, 2006, and signed by all of the government parties to the Settlement Agreement (other than the United States) on May 3, 2006, and as amended in conformity with this Act.

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

TITLE I—POJOAQUE BASIN REGIONAL WATER SYSTEM

SEC. 101. AUTHORIZATION OF REGIONAL WATER SYSTEM.

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation, shall plan, design, and construct a regional water system in accordance with the Settlement Agreement, to be known as the ''Regional Water System''—

(1) to divert and distribute water to the Pueblos and to the County Water Utility, in accordance with the Engineering Report; and

(2) that consists of—

(A) surface water diversion facilities at San Ildefonso Pueblo on the Rio Grande; and

(B) any treatment, transmission, storage and distribution facilities and wellfields for the County Distribution System and Pueblo Water Facilities that are necessary to supply 4,000 acre-feet of water within the Pojoaque Basin, unless modified in accordance with subsection (d)(2).

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

(1) is consistent with the Engineering Report; and

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

(c) ACQUISITION OF LAND; WATER RIGHTS.—

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

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

(d) CONDITIONS FOR CONSTRUCTION.—

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

(A) the Secretary executes—

(i) the Settlement Agreement; and

(ii) the Cost-Sharing and System Integration Agreement; and

(B) the State and the County have entered into an agreement with the Secretary to contribute the non-Federal share of the costs of the construction in accordance with the Cost-Sharing and System Integration Agreement.

(2) MODIFICATIONS TO REGIONAL WATER SYSTEM.—

(A) IN GENERAL.—The State and the County, in agreement with the Pueblos, the City, and other signatories to the Cost-Sharing and System Integration Agreement, may modify the extent, size, and capacity of the County Distribution System as set forth in the Cost-Sharing and System Integration Agreement.

(B) EFFECT.—A modification under subparagraph (A)—

(i) shall not affect implementation of the Settlement Agreement so long as the provisions in section 203 are satisfied; and

(ii) may result in an adjustment of the State and County cost-share allocation as set forth in the Cost-Sharing and System Integration Agreement.

(e) APPLICABLE LAW.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not apply to the design and construction of the Regional Water System.

(f) CONSTRUCTION COSTS.—

(1) PUEBLO WATER FACILITIES.—The costs of constructing the Pueblo Water Facilities, as determined by the final project design and the Engineering Report—

(A) shall be at full Federal expense subject to the amount authorized in section 107(a)(1); and

(B) shall be nonreimbursable to the United States.

(2) COUNTY DISTRIBUTION SYSTEM.—The costs of constructing the County Distribution System shall be at State and local expense.

(g) STATE AND LOCAL CAPITAL OBLIGATIONS.—The State and local capital obligations for the Regional Water System described in the Cost-Sharing and System Integration Agreement shall be satisfied on the

payment of the State and local capital obligations described in the Cost-Sharing and System Integration Agreement.

(h) CONVEYANCE OF REGIONAL WATER SYSTEM FACILITIES.—

(1) IN GENERAL.—Subject to paragraph (2), on completion of the construction of the Regional Water System, the Secretary, in accordance with the Operating Agreement, shall convey to—

(A) each Pueblo the portion of any Pueblo Water Facility that is located within the boundaries of the Pueblo, including any land or interest in land located within the boundaries of the Pueblo that is acquired by the United States for the construction of the Pueblo Water Facility;

(B) the County the County Distribution System, including any land or interest in land acquired by the United States for the construction of the County Distribution System; and

(C) the Authority any portions of the Regional Water System that remain after making the conveyances under subparagraphs (A) and (B), including any land or interest in land acquired by the United States for the construction of the portions of the Regional Water System.

(2) CONDITIONS FOR CONVEYANCE.—The Secretary shall not convey any portion of the Regional Water System facilities under paragraph (1) until the date on which—

(A) construction of the Regional Water System is complete; and

(B) the Operating Agreement is executed in accordance with section 102.

(3) SUBSEQUENT CONVEYANCE.—On conveyance by the Secretary under paragraph (1), the Pueblos, the County, and the Authority shall not reconvey any portion of the Regional Water System conveyed to the Pueblos, the County, and the Authority, respectively, unless the reconveyance is authorized by an Act of Congress enacted after the date of enactment of this Act.

(4) INTEREST OF THE UNITED STATES.—On conveyance of a portion of the Regional Water System under paragraph (1), the United States shall have no further right, title, or interest in and to the portion of the Regional Water System conveyed.

(5) ADDITIONAL CONSTRUCTION.—On conveyance of a portion of the Regional Water System under paragraph (1), the Pueblos, County, or the Authority, as applicable, may, at the expense of the Pueblos, County, or the Authority, construct any additional infrastructure that is necessary to fully use the water delivered by the Regional Water System.

(6) LIABILITY.—

(A) IN GENERAL.—Effective on the date of conveyance of any land or facility under this section, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the land and facilities conveyed, other than damages caused by acts of negligence by the United States, or by employees or agents of the United States, prior to the date of conveyance.

(B) TORT CLAIMS.—Nothing in this section increases the liability of the United States beyond the liability provided in chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act'').

(7) EFFECT.—Nothing in any transfer of ownership provided or any conveyance thereto as provided in this section shall extinguish the right of any Pueblo, the County, or the Regional Water Authority to the continuous use and benefit of each easement or right of way for the use, operation, maintenance, repair, and replacement of Pueblo Water Facilities, the County Distribution System or the Regional Water System or for wastewater purposes as provided in the Cost-Sharing and System Integration Agreement.

SEC. 102. OPERATING AGREEMENT.

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

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

(2) the date of issuance of a final project design for the Regional Water System under section 101(b).

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

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

(1) provisions consistent with the Settlement Agreement and the Cost-Sharing and System Integration Agreement and necessary to implement the intended benefits of the Regional Water System described in those documents;

(2) provisions for—

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

(i) distribution lines for the County Distribution System;

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

(iii) distribution lines that serve both—

(I) the County Distribution System; and

(II) the Pueblo Water Facilities;

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

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

(D) the construction of additional infrastructure and the acquisition of associated rights-of-way or easements necessary to enable any of the Pueblos or the County to fully use water allocated to the Pueblos or the County from the Regional Water System, including provisions addressing when the construction of such additional infrastructure requires approval by the Authority;

(E) the allocation and payment of annual operation, maintenance, and replacement costs for the Regional Water System, including the portions of the Regional Water System that are used to treat, transmit, and distribute water to both the Pueblo Water Facilities and the County Water Utility;

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

(G) the transfer of any water rights necessary to provide the Pueblo water supply described in section 103(a);

(H) the operation of the Regional Water System with respect to the water supply, including the allocation of the water supply in accordance with section 3.1.8.4.2 of the Settlement Agreement so that, in the event of a shortage of supply to the Regional Water System, the supply to each of the Pueblos' and to the County's distribution system shall be reduced on a prorata basis, in proportion to each distribution system's most current annual use; and

(I) dispute resolution; and

(3) provisions for operating and maintaining the Regional Water System facilities before and after conveyance under section 101(h), including provisions to—

(A) ensure that—

(i) the operation of, and the diversion and conveyance of water by, the Regional Water System is in accordance with the Settlement Agreement;

(ii) the wells in the Regional Water System are used in conjunction with the surface water supply of the Regional Water System to ensure a reliable firm supply of water to all users of the Regional Water System, consistent with the intent of the Settlement Agreement that surface supplies will be used to the maximum extent feasible;

(iii) the respective obligations regarding delivery, payment, operation, and management are enforceable; and

(iv) the County has the right to serve any new water users located on non-Pueblo land in the Pojoaque Basin; and

(B) allow for any aquifer storage and recovery projects that are approved by the Office of the New Mexico State Engineer.

(d) EFFECT.—Nothing in this Act precludes the Operating Agreement from authorizing phased or interim operations if the Regional Water System is constructed in phases.

SEC. 103. ACQUISITION OF PUEBLO WATER SUPPLY FOR THE REGIONAL WATER SYSTEM.

(a) IN GENERAL.—For the purpose of providing a reliable firm supply of water from the Regional Water System for the Pueblos in accordance with the Settlement Agreement, the Secretary, on behalf of the Pueblos, shall—

(1) acquire water rights to—

(A) 302 acre-feet of Nambe reserved water described in section 2.6.2 of the Settlement Agreement pursuant to section 107(c)(1)(C); and

(B) 1141 acre-feet from water acquired by the County for water rights commonly referred to as ''Top of the World'' rights in the Aamodt Case;

(2) make available 1079 acre-feet to the Pueblos pursuant to a contract entered into among the Pueblos and the Secretary in accordance with section 11 of the San Juan-Chama Project Act, under water rights held by the Secretary; and

(3) by application to the State Engineer, obtain approval to divert the water acquired and made available under paragraphs (1) and (2) at the points of diversion for the Regional Water System, consistent with the Settlement Agreement and the Cost-Sharing and System Integration Agreement.

(b) FORFEITURE.—The nonuse of the water supply secured by the Secretary for the Pueblos under subsection (a) shall in no event result in forfeiture, abandonment, relinquishment, or other loss thereof.

(c) TRUST.—The Pueblo water supply secured under subsection (a) shall be held by the United States in trust for the Pueblos.

(d) APPLICABLE LAW.—The water supply made available pursuant to subsection (a)(2) shall be subject to the San Juan-Chama Project Act, and no preference shall be provided to the Pueblos as a result of subsection (c) with regard to the delivery or distribution of San Juan-Chama Project water or the management or operation of the San Juan-Chama Project.

(e) CONTRACT FOR SAN JUAN-CHAMA PROJECT WATER SUPPLY.—With respect to the contract for the water supply required by subsection (a)(2), such San Juan-Chama Project contract shall be pursuant to the following terms:

(1) WAIVERS.—Notwithstanding the provisions of the San Juan-Chama Project Act, or any other provision of law—

(A) the Secretary shall waive the entirety of the Pueblos' share of the construction costs for the San Juan-Chama Project, and pursuant to that waiver, the Pueblos' share of all construction costs for the San Juan-Chama Project, inclusive of both principal and interest, due from 1972 to the execution of the contract required by subsection (a)(2), shall be nonreimbursable;

(B) the Secretary's waiver of each Pueblo's share of the construction costs for the San Juan-Chama Project will not result in an increase in the pro rata shares of other San Juan-Chama Project water contractors, but such costs shall be absorbed by the United States Treasury or otherwise appropriated to the Department of the Interior; and

(C) the costs associated with any water made available from the San Juan-Chama Project which were determined nonreimbursable and nonreturnable pursuant to Public Law No. 88–293, 78 Stat. 171 (March 26, 1964) shall remain nonreimbursable and nonreturnable.

(2) TERMINATION.—The contract shall provide that it shall terminate only upon the following conditions—

(A) failure of the United States District Court for the District of New Mexico to enter a final decree for the Aamodt Case by December 15, 2012, or within the time period of any extension of that deadline granted by the court; or

(B) entry of an order by the United States District Court for the District of New Mexico voiding the final decree and Settlement Agreement for the Aamodt Case pursuant to section 10.3 of the Settlement Agreement.

(f) LIMITATION.—The Secretary shall use the water supply secured under subsection (a) only for the purposes described in the Settlement Agreement.

(g) FULFILLMENT OF WATER SUPPLY ACQUISITION OBLIGATIONS.—Compliance with subsections (a) through (f) shall satisfy any and all obligations of the Secretary to acquire or secure a water supply for the Pueblos pursuant to the Settlement Agreement.

(h) RIGHTS OF PUEBLOS IN SETTLEMENT AGREEMENT UNAFFECTED.—Notwithstanding the provisions of subsections (a) through (g), the Pueblos, the County or the Regional Water Authority may acquire any additional water rights to ensure all parties to the Settlement Agreement receive the full allocation of water provided by the Settlement Agreement and nothing in this Act amends or modifies the quantities of water allocated to the Pueblos thereunder.

SEC. 104. DELIVERY AND ALLOCATION OF REGIONAL WATER SYSTEM CAPACITY AND WATER.

(a) ALLOCATION OF REGIONAL WATER SYSTEM CAPACITY.—

(1) IN GENERAL.—The Regional Water System shall have the capacity to divert from the Rio Grande a quantity of water sufficient to provide—

(A) up to 4,000 acre-feet of consumptive use of water; and

(B) the requisite peaking capacity described in—

(i) the Engineering Report; and

(ii) the final project design.

(2) ALLOCATION TO THE PUEBLOS AND COUNTY WATER UTILITY.—Of the capacity described in paragraph (1)—

(A) there shall be allocated to the Pueblos—

(i) sufficient capacity for the conveyance of 2,500 acre-feet consumptive use; and

(ii) the requisite peaking capacity for the quantity of water described in clause (i); and

(B) there shall be allocated to the County Water Utility—

(i) sufficient capacity for the conveyance of up to 1,500 acre-feet consumptive use; and

(ii) the requisite peaking capacity for the quantity of water described in clause (i).

(3) APPLICABLE LAW.—Water shall be allocated to the Pueblos and the County Water Utility under this subsection in accordance with—

(A) this title;

(B) the Settlement Agreement; and

(C) the Operating Agreement.

(b) DELIVERY OF REGIONAL WATER SYSTEM WATER.—The Authority shall deliver water from the Regional Water System—

(1) to the Pueblos water in a quantity sufficient to allow full consumptive use of up to 2,500 acre-feet per year of water rights by the Pueblos in accordance with—

(A) the Settlement Agreement;

(B) the Operating Agreement; and

(C) this title; and

(2) to the County water in a quantity sufficient to allow full consumptive use of up to 1,500 acre-feet per year of water rights by the County Water Utility in accordance with—

(A) the Settlement Agreement;

(B) the Operating Agreement; and

(C) this title.

(c) ADDITIONAL USE OF ALLOCATION QUANTITY AND UNUSED CAPACITY.—The Regional Water System may be used to—

(1) provide for use of return flow credits to allow for full consumptive use of the water allocated in the Settlement Agreement to each of the Pueblos and to the County; and

(2) convey water allocated to one of the Pueblos or the County Water Utility for the benefit of another Pueblo or the County Water Utility or allow use of unused capacity by each other through the Regional Water System in accordance with an intergovernmental agreement between the Pueblos, or between a Pueblo and County Water Utility, as applicable, if—

(A) such intergovernmental agreements are consistent with the Operating Agreement, the Settlement Agreement, and this Act;

(B) capacity is available without reducing water delivery to any Pueblo or the County Water Utility in accordance with the Settlement Agreement, unless the County Water Utility or Pueblo contracts for a reduction in water delivery or Regional Water System capacity;

(C) the Pueblo or County Water Utility contracting for use of the unused capacity or water has the right to use the water under applicable law; and

(D) any agreement for the use of unused capacity or water provides for payment of the operation, maintenance, and replacement costs associated with the use of capacity or water.

SEC. 105. AAMODT SETTLEMENT PUEBLOS' FUND.

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

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

(2) any interest earned from investment of amounts in the Fund under subsection (b).

(b) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, invest amounts in the Fund, and make amounts available from the Fund for distribution to the Pueblos in accordance with—

(1) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.); and

(2) this Act.

(c) INVESTMENT OF THE FUND.—On the date set forth in section 203(a)(1), the Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (25 U.S.C. 162a); and

(3) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(d) TRIBAL MANAGEMENT PLAN.—

(1) IN GENERAL.—A Pueblo may withdraw all or part of the Pueblo's portion of the Fund on approval by the Secretary of a tribal management plan as described in the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(2) REQUIREMENTS.—In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan shall require that a Pueblo spend any amounts withdrawn from the Fund in accordance with the purposes described in section 107(c).

(3) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any amounts withdrawn from the Fund under an approved tribal management plan are used in accordance with this title.

(4) LIABILITY.—If a Pueblo or the Pueblos exercise the right to withdraw amounts from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the amounts withdrawn.

(5) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Pueblos shall submit to the Secretary for approval an expenditure plan for any portion of the amounts in the Fund that the Pueblos do not withdraw under this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, amounts remaining in the Fund will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement.

(D) ANNUAL REPORT.—The Pueblos shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(6) NO PER CAPITA PAYMENTS.—No part of the principal of the Fund, or the interest or income accruing on the principal shall be distributed to any member of a Pueblo on a per capita basis.

(7) AVAILABILITY OF AMOUNTS FROM THE FUND.—

(A) APPROVAL OF SETTLEMENT AGREEMENT.—Amounts made available under subparagraphs (A) and (C) of section 107(c)(1) or from other authorized sources shall be available for expenditure or withdrawal only after the date on which the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement.

(B) COMPLETION OF CERTAIN PORTIONS OF REGIONAL WATER SYSTEM.—Amounts made available under section 107(c)(1)(B) or from other authorized sources shall be available for expenditure or withdrawal only after those portions of the Regional Water System described in section 1.5.24 of the Settlement Agreement have been declared substantially complete by the Secretary.

(C) FAILURE TO FULFILL CONDITIONS PRECEDENT.—If the conditions precedent in section 203 have not been fulfilled by September 15, 2017, the United States shall be entitled to set off any funds expended or withdrawn from the amounts appropriated pursuant to section 107(c), together with any interest accrued, against any claims asserted by the Pueblos against the United States relating to the water rights in the Pojoaque Basin.

SEC. 106. ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—In carrying out this title, the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

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

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

(b) NATIONAL ENVIRONMENTAL POLICY ACT.—Nothing in this Act affects the outcome of any analysis conducted by the Secretary or any other Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) REGIONAL WATER SYSTEM.—

(1) IN GENERAL.—Subject to paragraph (4), there is authorized to be appropriated to the Secretary for the planning, design, and construction of the Regional Water System and the conduct of environmental compliance activities under section 106 a total of $106,400,000 between fiscal years 2010 and 2022.

(2) PRIORITY OF FUNDING.—Of the amounts authorized under paragraph (1), the Secretary shall give priority to funding—

(A) the construction of the San Ildefonso portion of the Regional Water System, consisting of—

(i) the surface water diversion, treatment, and transmission facilities at San Ildefonso Pueblo; and

(ii) the San Ildefonso Pueblo portion of the Pueblo Water Facilities; and

(B) that part of the Regional Water System providing 475 acre-feet to Pojoaque Pueblo pursuant to section 2.2 of the Settlement Agreement.

(3) ADJUSTMENT.—The amount authorized under paragraph (1) shall be adjusted annually to account for increases in construction costs since October 1, 2006, as determined using applicable engineering cost indices.

(4) LIMITATIONS.—

(A) IN GENERAL.—No amounts shall be made available under paragraph (1) for the construction of the Regional Water System until the date on which the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement.

(B) RECORD OF DECISION.—No amounts made available under paragraph (1) shall be expended unless the record of decision issued by the Secretary after completion of an environmental impact statement provides for a preferred alternative that is in substantial compliance with the proposed Regional Water System, as defined in the Engineering Report.

(b) ACQUISITION OF WATER RIGHTS.—There is authorized to be appropriated to the Secretary funds for the acquisition of the water rights under section 103(a)(1)(B)—

(1) in the amount of $5,400,000.00 if such acquisition is completed by December 31, 2010; and

(2) the amount authorized under paragraph (b)(1) shall be adjusted according to the CPI Urban Index commencing January 1, 2011.

(c) AAMODT SETTLEMENT PUEBLOS' FUND.—

(1) IN GENERAL.—There is authorized to be appropriated to the Fund the following amounts for the period of fiscal years 2010 through 2022:

(A) $15,000,000, which shall be allocated to the Pueblos, in accordance with section 2.7.1 of the Settlement Agreement, for the rehabilitation, improvement, operation, maintenance, and replacement of the agricultural delivery facilities, waste water systems, and other water-related infrastructure of the applicable Pueblo. The amount authorized herein shall be adjusted according to the CPI Urban Index commencing October 1, 2006.

(B) $37,500,000, which shall be allocated to an account, to be established not later than January 1, 2016, to assist the Pueblos in paying the Pueblos' share of the cost of operating, maintaining, and replacing the Pueblo Water Facilities and the Regional Water System.

(C) $5,000,000 and any interest thereon, which shall be allocated to the Pueblo of Nambé for the acquisition of the Nambé reserved water rights in accordance with section 103(a)(1)(A). The amount authorized herein shall be adjusted according to the CPI Urban Index commencing January 1, 2011. The funds provided under this section may be used by the Pueblo of Nambé only for the acquisition of land, other real property interests, or economic development.

(2) OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—

(A) IN GENERAL.—Prior to conveyance of the Regional Water System pursuant to section 101, the Secretary shall pay any operation, maintenance or replacement costs associated with the Pueblo Water Facilities or the Regional Water System up to an amount that does not exceed $5,000,000, which is authorized to be appropriated to the Secretary.

(B) OBLIGATION OF THE FEDERAL GOVERNMENT AFTER COMPLETION.—Except as provided in section 103(a)(4)(B), after construction of the Regional Water System is completed and the amounts required to be deposited in the account have been deposited under this section the Federal Government shall have no obligation to pay for the operation, maintenance, and replacement costs of the Regional Water System.

TITLE II—POJOAQUE BASIN INDIAN WATER RIGHTS SETTLEMENT

SEC. 201. SETTLEMENT AGREEMENT AND CONTRACT APPROVAL.

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

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

(c) AUTHORITIES OF THE PUEBLOS.—

(1) IN GENERAL.—Each of the Pueblos may enter into contracts to lease or exchange water rights or to forbear undertaking new or expanded water uses for water rights recognized in section 2.1 of the Settlement Agreement for use within the Pojoaque Basin in accordance with the other limitations of section 2.1.5 of the Settlement Agreement provided that section 2.1.5 is amended accordingly.

(2) EXECUTION.—The Secretary shall not execute the Settlement Agreement until such amendment is accomplished under paragraph (1).

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

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

(5) APPLICABLE LAW.—Section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any lease or contract entered into under paragraph (1).

(6) LEASING OR MARKETING OF WATER SUPPLY.—The water supply provided on behalf of the Pueblos pursuant to section 103(a)(1) may only be leased or marketed by any of the Pueblos pursuant to the intergovernmental agreements described in section 104(c)(2).

(d) AMENDMENTS TO CONTRACTS.—The Secretary shall amend the contracts relating to the Nambe Falls Dam and Reservoir that are necessary to use water supplied from the Nambe Falls Dam and Reservoir in accordance with the Settlement Agreement.

SEC. 202. ENVIRONMENTAL COMPLIANCE.

(a) EFFECT OF EXECUTION OF SETTLEMENT AGREEMENT.—The execution of the Settlement Agreement under section 201(b) shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

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

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

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

SEC. 203. CONDITIONS PRECEDENT AND ENFORCEMENT DATE.

(a) CONDITIONS PRECEDENT.—

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

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

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

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

(C) Congress has fully appropriated, or the Secretary has provided from other authorized sources, all funds authorized by section 107, with the exception of subsection (a)(1) of that section, by December 15, 2016;

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

(E) a partial final decree that sets forth the water rights and other rights to water to which the Pueblos are entitled under the Settlement Agreement and this title and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico; and

(F) a final decree that sets forth the water rights for all parties to the Aamodt Case and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico by June 15, 2017.

(b) EXPIRATION DATE.—If all the conditions precedent described in subsection (a)(2) have not been fulfilled by September 15, 2017—

(1) the Settlement Agreement and this Act including waivers described in those documents shall no longer be effective; and

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

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

Order consistent with the Settlement Agreement.

(d) EFFECTIVENESS OF WAIVERS.—The waivers and releases executed pursuant to section 204 shall become effective as of the date that the Secretary publishes the notice required by subsection (a)(1).

(e) REQUIREMENTS FOR DETERMINATION OF SUBSTANTIAL COMPLETION OF THE REGIONAL WATER SYSTEM.—

(1) CRITERIA FOR SUBSTANTIAL COMPLETION OF REGIONAL WATER SYSTEM.—Subject to the provisions in section 101(d) concerning the extent, size, and capacity of the County Distribution System, the Regional Water System shall be determined to be substantially completed if the infrastructure has been constructed capable of—

(A) diverting, treating, transmitting, and distributing a supply of 2,500 acre-feet of water to the Pueblos; and

(B) diverting, treating, and transmitting the quantity of water specified in the Engineering Report to the County Distribution System.

(2) CONSULTATION.—On or after June 30, 2021, at the request of 1 or more of the Pueblos, the Secretary shall consult with the Pueblos and confer with the County and the State on whether the criteria in paragraph (1) for substantial completion of the Regional Water System have been met or will be met by June 30, 2024.

(3) RIGHT TO VOID FINAL DECREE.—If the substantial completion criteria have not been met by June 15, 2021, after the consultation required by paragraph (2), the Pueblos or the United States as trustee for the Pueblos have until midnight June 30, 2024 to ask the Decree Court to void the Final Decree pursuant to section 10.3 of the Settlement Agreement.

(f) VOIDING OF WAIVERS.—If the Court determines the Final Decree is voided pursuant to Section 10.3 of the Settlement Agreement, the Settlement Agreement shall no longer be effective, the waivers and releases executed pursuant to section 204 shall no longer be effective, and any unexpended Federal funds, together with any income earned thereon, and title to any property acquired or constructed with expended Federal funds, shall be returned to the Federal Government unless otherwise agreed to by the Pueblos and the United States in writing and approved by Congress.

SEC. 204. WAIVERS AND RELEASES.

(a) CLAIMS BY THE PUEBLOS AND THE UNITED STATES.—In return for recognition of the Pueblos' water rights and other benefits, including waivers and releases by non-Pueblo parties, as set forth in the Settlement Agreement and this Act, the Pueblos, on behalf of themselves and their members, and the United States acting in its capacity as trustee for the Pueblos are authorized to execute a waiver and release of—

(1) all claims for water rights in the Pojoaque Basin that the Pueblos, or the United States acting in its capacity as trustee for the Pueblos, asserted, or could have asserted, in any proceeding, including the Aamodt Case, up to and including the waiver effectiveness date identified in section 203(d), except to the extent that such rights are recognized in the Settlement Agreement or this Act;

(2) all claims for water rights for lands in the Pojoaque Basin and for rights to use water in the Pojoaque Basin that the Pueblos, or the United States acting in its capacity as trustee for the Pueblos, might be able to otherwise assert in any proceeding not initiated on or before the date of enactment of this title, except to the extent that such rights are recognized in the Settlement Agreement or this Act;

(3) all claims for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, or taking) for land within the Pojoaque Basin that accrued at any time up to and including the waiver effectiveness date identified in section 203(d);

(4) their defenses in the Aamodt Case to the claims previously asserted therein by other parties to the Settlement Agreement;

(5) all pending and future inter se challenges to the quantification and priority of water rights of non-Pueblo wells in the Pojoaque Basin, except as provided by section 2.8 of the Settlement Agreement;

(6) all pending and future inter se challenges against other parties to the Settlement Agreement;

(7) all claims for damages, losses, or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, or taking of water) attributable to City of Santa Fe pumping of groundwater that has effects on the ground and surface water supplies of the Pojoaque Basin, provided that this waiver shall not be effective by the Pueblo of Tesuque unless there is a water resources agreement executed between the Pueblo of Tesuque and the City of Santa Fe;

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

(9) all claims for damages, losses, or injuries, or for injunctive or other relief, because of the condition of, or changes in, the concentration of naturally occurring constituents of ground and surface water in the Pojoaque Basin arising out of the diversion of water pursuant to water rights recognized by the final decree.

(b) CLAIMS BY THE PUEBLOS AGAINST THE UNITED STATES.—The Pueblos, on behalf of themselves and their members, are authorized to execute a waiver and release of—

(1) all claims against the United States, its agencies, or employees, relating to claims for water rights in or water of the Pojoaque Basin or for rights to use water in the Pojoaque Basin that the United States acting in its capacity as trustee for the Pueblos asserted, or could have asserted, in any proceeding, including the Aamodt Case;

(2) all claims against the United States, its agencies, or employees relating to damages, losses, or injuries to water, water rights, land, or natural resources due to loss of water or water rights (including damages, losses or injuries to hunting, fishing, gathering or cultural rights due to loss of water or water rights; claims relating to interference with, diversion or taking of water or water rights; or claims relating to failure to protect, acquire, replace, or develop water, water rights or water infrastructure) within the Pojoaque Basin that first accrued at any time up to and including the waiver effectiveness date identified in section 203(d);

(3) all claims against the United States, its agencies, or employees for an accounting of funds appropriated by Acts, including the Act of December 22, 1927 (45 Stat. 2), the Act of March 4, 1929 (45 Stat. 1562), the Act of March 26, 1930 (46 Stat. 90), the Act of February 14, 1931 (46 Stat. 1115), the Act of March 4, 1931 (46 Stat. 1552), the Act of July 1, 1932 (47 Stat. 525), the Act of June 22, 1936 (49 Stat. 1757), the Act of August 9, 1937 (50 Stat. 564), and the Act of May 9, 1938 (52 Stat. 291), as authorized by the Pueblo Lands Act of June 7, 1924 (43 Stat. 636) and the Pueblo Lands Act of May 31, 1933 (48 Stat. 108) and for breach of Trust relating to funds for water replacement appropriated by said Acts that first accrued before the date of enactment of this Act;

(4) all claims against the United States, its agencies, or employees relating to the pending litigation of claims relating to the Pueblos' water rights in the Aamodt Case; and

(5) all claims against the United States, its agencies, or employees relating to the negotiation, Execution or the adoption of the Settlement Agreement, exhibits thereto, the Partial Final Decree, the Final Decree, or this Act.

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

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

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

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

(4) all claims against persons other than Parties to the Settlement Agreement for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to lands resulting from such damages, losses, injuries, interference with, diversion, or taking of water) within the Pojoaque Basin arising out of activities occurring outside the Pojoaque Basin;

(5) all claims relating to activities affecting the quality of water including any claims the Pueblos may have under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (including claims for damages to natural resources), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations implementing those laws;

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

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

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

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

(1) affects the ability of the United States acting in its sovereign capacity to take actions authorized by law, including any laws relating to health, safety, or the environment, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), and the regulations implementing those laws;

(2) affects the ability of the United States to take actions acting in its capacity as trustee for any other Indian tribe or allottee; or

(3) confers jurisdiction on any State court to—

(A) interpret Federal law regarding health, safety, or the environment or determine the duties of the United States or other parties pursuant to such Federal law; or

(B) conduct judicial review of Federal agency action;

(e) TOLLING OF CLAIMS.—

(1) IN GENERAL.—Each applicable period of limitation and time-based equitable defense relating to a claim described in this section shall be tolled for the period beginning on the date of enactment of this Act and ending on June 30, 2021.

(2) EFFECT OF SUBPARAGRAPH.—Nothing in this subsection revives any claim or tolls any period of limitation or time-based equitable defense that expired before the date of enactment of this Act.

(3) LIMITATION.—Nothing in this section precludes the tolling of any period of limitations or any time-based equitable defense under any other applicable law.

SEC. 205. EFFECT.

Nothing in this Act or the Settlement Agreement affects the land and water rights, claims, or entitlements to water of any Indian tribe, pueblo, or community other than the Pueblos.

Mr. UDALL of New Mexico. Mr. President, today I join Senator BINGAMAN in introducing a bill to complete the Aamodt water settlement in northern New Mexico. Introduction of this bill represents a major milestone in the resolution of water rights claims for four tribes along the Rio Grande in northern New Mexico. Decades of work and negotiation have gone into the settlement, and I am pleased that the tribes, city, county, and community groups involved were able to come to an agreement that is mutually beneficial to all water users in the Pojoaque valley.

The Aamodt settlement resolves the water claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque, and addresses the needs of the surrounding communities in Santa Fe County for water and sanitation systems. The settlement is a result of long negotiations between the county and pueblos, and will result in the development of a mutually beneficial water infrastructure system. This system will ensure that the pueblos have access to clean running water into the future, and will allow the surrounding communities to work with the county and state to connect in to the water system. I applaud the efforts and success of these groups in coming to an agreement that both settles disputes and benefits each community.

New Mexico is a State rich with tradition and culture, where water resources are scarce and precious. Diverse communities have depended on the on ground and surface water along the Rio Grande for centuries. As our population grows and communities expand to welcome newcomers, the impact on water resources in New Mexico is vivid. With such stress on this vital but limited commodity, conflict easily develops between communities and individuals, and in a State where the history is long and complex, disputes over water are uniquely complicated. But, ay. despite the potential for disagreement over water tenure, New Mexicans are united in a common respect for this resource. From the pueblos and tribes of New Mexico, to the historic acequias and growing communities, water is fundamental to both survival and cultural traditions, and is respected as such. The Aamodt settlement is an example of communities and tribes coming together to foster compromise rather than conflict. The parties involved have worked tirelessly to ensure that everyone has access to this precious and respected resource.

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

By Mr. DURBIN (for himself, Mr. GRAHAM, and Mr. HATCH):

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

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

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

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

Federal judges have only 6 months from the date of their appointment to sign up for JSAS and, for a variety of reasons, many do not do so. For example, many individuals take substantial pay cuts when they leave a law firm to become a Federal judge, and they are unable to afford JSAS contributions, which amount to a 2.2 percent of a judge's annual salary. Nearly 900 federal judges, representing about 40 percent of the federal judiciary, currently do not participate in JSAS. However, if given the opportunity, the Administrative Office of the U.S. Courts estimates between 200 and 300 judges would sign up.

Take, for example, the case of Judge Michael Mihm, who is a federal judge in the Central District of Illinois, my home State. Judge Mihm wrote a letter and said:

> In 1982, when I came on the bench, the survivor's pension (JSAS) was so bad that almost no incoming judge signed up for it. Plus, the percentage of salary involved was very high. So I didn't sign up for it then. In the early 90s I was a member of the Judicial Branch Committee, and at that time the Committee and the judiciary succeeded in getting a bill passed that improved the benefits (established a 25% floor) and the percentage of salary paid. There was an open season. That would have been the time to join. However, at that time I had four children attending private universities . . . I simply couldn't afford to bring home a smaller paycheck. I have for some time now been very interested in 'buying in' to the survivor's pension, that is, pay in everything I would have paid in if I had joined during the open season, plus a penalty amount for waiting until now to join.

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

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

As a result, the cost of our bill would be borne by these new enrollees and not by the Federal Government or by previously enrolled judges. The Congressional Budget Office has conducted an informal review of this bill and determined that the cost of this bill is insignificant. Therefore, the bill would require no Federal funds and have no

PAYGO implications. The higher ongoing contribution rates for new enrollees will offset the value of any potential future liabilities that would be incurred by the JSAS fund, which currently has assets of over $500 million.

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

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

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

S. 1107

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 ''Judicial Survivors Protection Act of 2009''.

SEC. 2. DEFINITIONS.

In this Act:

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

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

(3) The term ''Judicial Survivors' Annuities System'' means the program established under section 376 of title 28, United States Code.

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

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

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

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

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

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

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

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

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

(3) of a judicial official on recall under section 155(b), 373(c)(4), 375, or 636(h) of title 28, United States Code,

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

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

SEC. 5. DEPOSIT FOR PRIOR CREDITABLE SERVICE.

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

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

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

Section 376 of title 28, United States Code, is amended by adding at the end the following:

''(y) For each year of Federal judicial service completed, judicial officials who are enrolled in the Judicial Survivors' Annuities System on the date of enactment of the Judicial Survivors Protection Act of 2009 may purchase, in 3-month increments, up to an additional year of service credit, under the terms set forth in this section. In the case of judicial officials who elect to enroll in the Judicial Survivors' Annuities System during the statutory open enrollment period authorized under the Judicial Survivors Protection Act of 2009, for each year of Federal judicial service completed, such an official may purchase, in 3-month increments, up to an additional year of service credit for each year of Federal judicial service completed, under the terms set forth in section 4(a) of that Act.''.

SEC. 7. EFFECTIVE DATE.

This Act, including the amendment made by section 6, shall take effect on the date of enactment of this Act.

Mr. HATCH. Mr. President, I am pleased to join my colleague from Illinois and fellow Judiciary Committee member, Senator DURBIN, in introducing the Judicial Survivors' Protection Act of 2009. This legislation will provide more Federal judges with an opportunity financially to provide for their own families after their death. Under this legislation, the cost of this opportunity will be borne by the judges themselves, not by the taxpayers, and I hope all my colleagues will support it.

Congress created the Judicial Survivors' Annuity System in 1956. It allow Federal judges to devote a portion of their salary toward an annuity for their spouses and dependent children upon the judges' death. Enrollment in JSAS is also necessary for a judge's family members to continue receiving health insurance coverage under the Federal Employees Health Benefits Program.

The catch is that judges must enroll within 6 months of taking judicial office or 6 months of marriage while in office. Approximately 40 percent of current Federal judges did not do so, some for financial reasons. Many judges who had been in private practice, for example, took a substantial pay cut to enter public service. The enrollment period for JSAS was the very time when they and their families were making that financial adjustment, when maximizing current income was the priority. This is just one of the scenarios which have led judges to decline enrollment in JSAS, and it will become more likely, more pronounced, as Congress refuses to give Federal judges a much needed pay raise.

Congress may authorize an open-season period for sitting judges to enroll but has not done so since 1992, the year after Congress last gave Federal judges a real salary increase. The legislation we introduce today would provide for such a one-time, 6 month period for sitting Federal judges to enroll in JSAS. Doing so would not cost the taxpayers anything because these judges would commit a higher percentage of their salary than those who enroll during the ordinary period.

Congress' refusal to provide appropriate judicial compensation limits judges' ability to provide for their families financial future. Providing this one-time opportunity for judges to enroll in JSAS, therefore, is almost the least we can do. It will also allow more judges to ensure that their family members will continue receiving health insurance coverage. And since it will not cost the taxpayers anything, I think it is a win-win which I trust will receive wide bipartisan support.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1110. A bill to amend title XVIII of the Social Security Act to create a sensible infrastructure for delivery system reform by renaming the Medicare Payment Advisory Commission, making the Commission an executive branch agency, and providing the Commission new resources and authority to implement Medicare payment policy; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Medicare Payment Advisory Commission MedPAC Reform Act, legislation to elevate MedPAC to an executive branch entity and give it the resources and authority to implement Medicare payment policies. It is a fact that the quality of U.S. health care is mediocre

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

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

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

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

MedPAC has proven, through its objectivity and its open and deliberative process, that they have the appropriate expertise to change the cost curve for Medicare and strengthen it for the future. The Medicare Payment Advisory Commission Reform Act of 2009 helps to achieve this goal. Specifically, this legislation would restructure MedPAC as an independent executive branch entity, like the Federal Reserve Board. This would provide MedPAC the appropriate authority to implement its recommendations for Medicare provider reimbursement policies.

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

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

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

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. 1110

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009''.

SEC. 2. RENAMING AND REFORMING THE MEDICARE PAYMENT ADVISORY COMMISSION.

(a) AMENDMENT TO TITLE.—

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

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

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

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

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

(1) in the heading, by striking ''ADVISORY'';

(2) in subsection (a)—

(A) by striking ''Advisory''; and

(B) by striking ''agency of Congress'' and inserting ''independent establishment (as defined in section 104 of title 5, United States Code)'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking ''APPOINTMENT.—The Commission'' and inserting ''APPOINTMENT.—

''(A) IN GENERAL.—The Commission'';

(ii) in subparagraph (A), as inserted by clause (i)—

(I) by striking ''17'' and inserting ''11'';

(II) by inserting ''the Secretary and the Administrator of the Centers for Medicare & Medicaid Services, who shall each serve as non-voting members of the Commission, and'' after ''composed of''; and

(III) by striking ''Comptroller General'' and inserting ''President, by and with the advice and consent of the Senate''; and

(iii) by adding at the end the following new subparagraphs:

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

''(C) MEMBERS CURRENTLY APPOINTED.—

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

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

''(II) April 30, 2010.

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

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

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

(C) in paragraph (3)—

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

''(A) IN GENERAL.—The terms of members of the Commission shall be for 6 years except that, of the members first appointed—

''(i) four shall be appointed for terms of 5 years;

''(ii) four shall be appointed for terms of 3 years; and

''(iii) three shall be appointed for terms of 1 year.''; and

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

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

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

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

''(5) CHAIRMAN; VICE CHAIRMAN.—The President shall designate a member of the Commission, at the time of appointment of the member by and with the advice and consent of the Senate, as Chairman and a member of the Commission, at the time of appointment of the member by and with the advice and consent of the Senate, as Vice Chairman, except that in the case where the Chairman or the Vice Chairman is not able to be present

(including in the case of vacancy), a majority of the Commission may designate another member for the period of such absence.'';

(4) in subsection (d), in the matter preceding paragraph (1), by striking ''Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission'' and inserting ''The Commission'';

(5) by amending subsection (f) to read as follows:

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Sixty percent of such appropriations shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.''; and

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

''(g) REFERENCES.—Any reference to the Medicare Payment Advisory Commission or MedPAC shall be deemed a reference to the Medicare Payment and Access Commission.''.

(c) AUTHORITY TO DETERMINE PAYMENT RATES AND ROUTINE EVALUATION OF PAYMENT RATES UNDER THE MEDICARE PROGRAM.—

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

(A) in paragraph (1)(B), by inserting ''and determine payment rates for items and services furnished under this title in accordance with paragraph (9)'' before the semicolon at the end; and

(B) by adding at the end the following new paragraphs:

''(9) AUTHORITY TO DETERMINE PAYMENT RATES UNDER THIS TITLE.—

''(A) DETERMINATION OF PAYMENT RATES.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, the Commission shall determine payment rates for items and services furnished under this title. In determining such payment rates, the Commission shall do so in a manner that is consistent with the provisions of sections 1801 and 1802.

''(ii) TIMELINE FOR DETERMINATIONS WITH RESPECT TO PAYMENT POLICIES FOR PHYSICIANS AND HOSPITALS.—The Commission shall make a determination under this subparagraph with respect to payment policies—

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

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

''(B) IMPLEMENTATION OF PAYMENT RATES.—

''(i) AUTHORITY OF SECRETARY.—Notwithstanding any other provision of law, the Secretary shall promulgate regulations to implement any payment rates determined by the Commission under subparagraph (A).

''(ii) PAYMENT RATES AND REGULATIONS CURRENTLY IN EFFECT.—Any payment rate for items and services furnished under this title as of the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009 or regulation promulgated by the Secretary relating to such payments prior to such date of enactment shall remain in effect until the Secretary promulgates regulations under clause (ii) to implement a payment rate determined by the Commission with respect to the item or service.

''(C) LIMITATION ON JUDICIAL REVIEW.—Any determination of the Commission relating to payment rates for items and services furnished under this title shall be a final agency action of the Commission and shall not be subject to judicial review.

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

''(10) ROUTINE EVALUATION OF PAYMENT RATES.—The Commission shall review the payment rate for each item and service furnished under this title not less frequently than every 5 years in order to determine whether the Commission should make a determination under paragraph (9) to update such payment rate.''.

(2) GAO STUDY AND ANNUAL REPORT ON DETERMINATION AND IMPLEMENTATION OF PAYMENT RATES.—

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

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

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

(iii) the process for—

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

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

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

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

(d) CONGRESSIONAL ACTION.—Section 1805 of the Social Security Act (42 U.S.C. 1395b–6), as amended by subsection (b), is amended—

(1) by redesignating subsections (f) and (g), respectively, as subsections (g) and (h); and

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

''(f) CONGRESSIONAL ACTION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, it shall only be in order in the Senate or the House of Representatives to consider any measure that would overrule a determination of the Commission with respect to payments for items and services furnished under this title if ⅗ of the Members, duly chosen and sworn, of the Senate or the House of Representatives agree to such consideration.

''(2) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

''(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a measure described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.''.

(e) RESEARCH, INFORMATION ACCESS, AND DEMONSTRATION PROJECTS.—Section 1805(e) of the Social Security Act (42 U.S.C. 1395b–6(e)) is amended by adding at the end the following new paragraphs:

''(5) AUTHORITY TO INFORM RESEARCH PRIORITIES FOR DATA COLLECTION.—The Commission may advise the Secretary (through the Director of the Agency for Healthcare Research and Quality and the Director of the National Institutes of Health) on priorities for health services research, particularly as such priorities pertain to necessary changes and issues regarding payment reforms under this title.

''(6) EXPANDED AUTHORITY TO ACCESS FEDERAL DATA AND REPORTS.—In addition to data obtained under paragraph (1), the Commission shall have priority access to all raw data and research conducted or funded by the Federal government, including data and research produced by the Centers for Medicare & Medicaid Services, the National Institutes of Health, and the Agency for Healthcare Research and Quality.

''(7) ELECTRONIC ACCESS.—The National Director for Health Information Technology, in coordination with the Secretary, the Administrator of the Centers for Medicare & Medicaid Services, and the Commission, shall establish a direct electronic link for raw data, including claims data under this title, to be accessed by the Commission for the purposes of evaluating and determining recommendations under this title, in accordance with applicable privacy laws and data use agreements.

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

''(9) REVISIONS TO PROCESS FOR CONDUCT OF DEMONSTRATION PROJECTS RELATING TO PAYMENTS UNDER THIS TITLE.—Effective beginning January 1, 2011, the Commission shall have sole authority to design and evaluate demonstration projects relating to payments under this title which are authorized by section 402 of the Social Security Amendments of 1967 or under a waiver under section 1115. The Secretary shall maintain all responsibility for implementing such demonstration projects, including for implementing the process through which providers are reimbursed for items and services furnished under the demonstration projects. Nothing in this paragraph shall affect the authority of the Secretary with respect to demonstration projects under this title not relating to such payments.''.

(f) ADDITIONAL RESOURCES TO CARRY OUT DUTIES.—

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

(A) in paragraph (1), by inserting ''(including an attorney)'' after ''such other personnel''; and

(B) in paragraph (5), by striking ''and'' at the end;

(C) in paragraph (6), by striking the period at the end and inserting ''; and''; and

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

''(7) establish a public affairs office.''.

(2) OFFICE OF THE OMBUDSMAN.—Section 1805(e) of the Social Security Act (42 U.S.C.

1395b–6(e)), as amended by subsection (e), is amended by adding at the end the following new paragraph:

''(10) OFFICE OF THE OMBUDSMAN.—

''(A) IN GENERAL.—The Commission shall establish an office of the ombudsman to handle complaints regarding the implementation of regulations under subsection (a)(9)(B).

''(B) DUTIES.—The office of the ombudsman shall—

''(i) act as a liaison between the Commission and any entity or individual affected by the implementation of such a regulation; and

''(ii) ensure that the Commission has established safeguards—

''(I) to encourage such entities and individuals to submit complaints to the office of the ombudsman; and

''(II) to protect the confidentiality of any entity or individual who submits such a complaint.''.

(g) USE OF FUNDING.—Section 1805(g) of the Social Security Act (42 U.S.C. 1395b–6(g)), as amended by subsection (b) and redesignated by subsection (d), is amended by adding at the end the following new sentence: ''Out of amounts appropriated under the preceding sentence, the Commission may use not more than $500,000,000 each fiscal year to test new methods of reimbursement under this title.''.

(h) MACPAC TECHNICAL AMENDMENTS.—Section 1900(b) of the Social Security Act (42 U.S.C. 1396) is amended—

(1) in paragraph (1)(D), by striking ''June 1'' and inserting ''June 15''; and

(2) by adding at the end the following:

''(10) CONSULTATION WITH MEDPAC.—MACPAC shall regularly consult with the Medicare Payment and Access Commission (in this paragraph referred to as 'MedPAC') established under section 1805 in carrying out its duties under this section.''.

(i) LOBBYING COOLING-OFF PERIOD FOR MEMBERS OF THE MEDICARE PAYMENT ADVISORY COMMISSION.—Section 207(c) of title 18, United States Code, is amended by inserting at the end the following:

''(3) MEMBERS OF THE MEDICARE PAYMENT ADVISORY COMMISSION.—

''(A) IN GENERAL.—Paragraph (1) shall apply to a member of the Medicare Payment Advisory Commission who was appointed to such Commission as of the day before the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009.

''(B) AGENCIES AND CONGRESS.—For purposes of paragraph (1), the agency in which the individual described in subparagraph (A) served shall be considered to be the Medicare Payment and Access Commission established under section 1805 of the Social Security Act, the Department of Health and Human Services, and the relevant committees of jurisdiction of Congress.''.

SEC. 3. ESTABLISHMENT OF COUNCIL OF HEALTH AND ECONOMIC ADVISERS, CONSUMER ADVISORY COUNCIL, AND FEDERAL HEALTH ADVISORY COUNCIL.

Section 1805(b) of the Social Security Act (42 U.S.C. 1395b–6(b)), as amended by section 2(c), is amended by adding at the end the following new paragraph:

''(11) COUNCIL OF HEALTH AND ECONOMIC ADVISERS, CONSUMER ADVISORY COUNCIL, AND FEDERAL HEALTH ADVISORY COUNCIL.—

''(A) COUNCIL OF HEALTH AND ECONOMIC ADVISERS.—

''(i) IN GENERAL.—The Commission shall establish a council of health and economic advisers to advise the Commission on its development, analyses, and implementation of payment policies under this title.

''(ii) MEMBERSHIP.—

''(I) IN GENERAL.—The council of health and economic advisers shall be composed of acknowledged experts in health care and economics selected by the Commission.

''(II) INITIAL INCLUSION OF FORMER MEMBERS OF MEDICARE PAYMENT ADVISORY COMMISSION.—The members initially selected for the council of health and economic advisers under subclause (I) shall include those individuals who were members of the Medicare Payment Advisory Commission as of the day before the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009.

''(B) CONSUMER ADVISORY COUNCIL.—

''(i) IN GENERAL.—There is established a consumer advisory council to advise the Commission on the impact of payment policies under this title on consumers.

''(ii) MEMBERSHIP.—

''(I) NUMBER AND APPOINTMENT.—The consumer advisory council shall be composed of 10 consumer representatives appointed by the Comptroller General of the United States, 1 from among each of the 10 regions established by the Secretary as of the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009.

''(II) QUALIFICATIONS.—The membership of the council shall represent the interests of consumers and particular communities.

''(iii) DUTIES.—The consumer advisory council shall, subject to the call of the Commission, meet not less frequently than 2 times each year in the District of Columbia.

''(iv) OPEN MEETINGS.—Meetings of the consumer advisory council shall be open to the public.

''(v) ELECTION OF OFFICERS.—Members of the consumer advisory council shall elect their own officers.

''(C) FEDERAL HEALTH ADVISORY COUNCIL.—

''(i) IN GENERAL.—There is established a Federal health advisory council to consult with and provide advice to the Commission on all matters within the jurisdiction of the Commission.

''(ii) MEMBERSHIP.—The Federal health advisory council shall be composed of 10 representatives from the health care industry appointed by the Comptroller General of the United States, 1 from among each of the 10 regions established by the Secretary as of the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009.

''(iii) TERMS.—

''(I) IN GENERAL.—The terms of members of the Federal health advisory council shall be for 1 year.

''(II) LIMITATION ON NUMBER OF TERMS SERVED.—An individual may not be appointed as a member of the Federal health advisory council for more than 3 terms.

''(iv) DUTIES.—The Federal health advisory council shall, subject to the call of the Commission, meet not less frequently than 2 times each year in the District of Columbia.

''(v) OPEN MEETINGS.—Meetings of the Federal health advisory council shall be open to the public.

''(vi) ELECTION OF OFFICERS.—Members of the Federal health advisory council shall elect their own officers.

''(D) LIMITATION ON FUNDING.—Out of amounts appropriated under subsection (g), the Commission may use not more than $300,000 each fiscal year to carry out this paragraph.''.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1111. A bill to require the Secretary of Health and Human Services to enter into agreements with States to resolve outstanding claims for reimbursement under the Medicare program relating to the Special Disability Workload project; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Special Disability Workload Liability Resolution Act, legislation that will resolve Medicare's longstanding liability to state Medicaid programs for individuals who were covered by Medicaid when they should have been covered by Medicare.

For the past several decades, hundreds of thousands of disabled people have had their health care paid for by Medicaid; however, their health care was actually the responsibility of Medicare. Therefore, states have been left financially responsible for individuals whose care should have been paid for entirely by the Federal Government. Both the Centers for Medicare and Medicaid Services, CMS, and the Social Security Administration, SSA, acknowledge Medicare's responsibility for these beneficiaries. The Social Security Administration is in the process of correcting the cash insurance payments that were due to disabled individuals. However, CMS has not acted to establish a means of satisfying Medicare's liability.

This is unacceptable. Nearly every state is struggling to balance its budget in the midst of this terrible economic crisis, and it is estimated that the Medicare program owes the states an estimated $4 billion. This figure continues to grow as the SSA corrects additional cases. When it is determined that a state owes the Federal Government money for Medicaid expenses, states have only 60 days to pay this debt. Yet, now that the situation is reversed, the Federal Government has not even established a timeline with which to pay its debt to the States.

The legislation I am introducing today, the Special Disability Workload Liability Resolution Act, would provide $4 billion in Federal funding to settle this debt to the States. It requires the Social Security Administration and CMS to develop an accurate payment methodology to reimburse states within 6 months of the bill's enactment. Resolving this Federal debt would inject critical funds into State and local economies and help maintain state jobs.

This bill is based on language successfully included in the Senate-passed American Recovery and Reinvestment Act, but it was dropped in conference. It is my hope that my colleagues will once again support this important 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 printed in the RECORD, as follows:

S. 1111

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Special Disability Workload Liability Resolution Act of 2009''.

SEC. 2. PAYMENT OF MEDICARE LIABILITY TO STATES AS A RESULT OF THE SPECIAL DISABILITY WORKLOAD PROJECT.

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

(b) PAYMENTS.—

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

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

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

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

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

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

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

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

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

(A) waives the right to file a civil action (or to be a party to any action) in any Federal or State court in which the relief sought includes a payment from the United States to the State related to the Medicare liability under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as a result of the Special Disability Workload project; and

(B) releases the United States from any further claims for reimbursement of State expenditures as a result of the Special Disability Workload project (other than reimbursements being made under agreements in effect on the date of enactment of this Act as a result of such project, including payments made pursuant to agreements entered into under section 1616 of the Social Security Act or section 211(1)(1)(A) of Public Law 93–66).

(3) NO INDIVIDUAL STATE CLAIMS DATA REQUIRED.—No State shall be required to submit individual claims evidencing payment under the Medicaid program as a condition for receiving a payment under this section.

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

(d) DEFINITIONS.—In this section:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of Social Security.

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

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

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

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

(6) SPECIAL DISABILITY WORKLOAD PROJECT.—The term ''Special Disability Workload project'' means the project described in the 2008 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, H.R. Doc. No. 110-104, 110th Cong. (2008).

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

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

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

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

Nearly every day Americans can open their newspapers to learn about a death caused by drivers under the influence of drugs and alcohol. Sometimes, these drivers are behind the wheel of an 18-wheeler or a commercial bus, which due to their size and weight bring a destructive force on any road. On May 8th of this year, the Arkansas Democrat Gazette reported about a commercial bus driver involved in an accident on Interstate 40 near Forrest City, AR, in 2007 that resulted in four fatalities. The driver was reportedly under the influence of amphetamines, one of the substances tested for under Federal Motor Carrier Safety Administration, FMCSA, testing regulations. The driver of this commercial vehicle has been sentenced to jail and four lives were lost as a result of the accident.

Some other similar accidents involving truck drivers that have occurred in recent years include: in October 2008, Kane County, IL, a truck driver rear-ended a passenger vehicle killing a woman. The truck driver was indicted for reckless homicide and driving under the influence of narcotics.

In January 2008, in Franklin County, AL, a truck driver was arrested for being under the influence of drugs or alcohol after crossing the center line and killing a woman in a head-on accident.

In July 2007, in Little Rock, AR, a truck driver killed a family of five in a crash. The driver admitted smoking crack cocaine a few hours before the crash.

In May 2007, Centre County, PA, a truck driver ran over a car killing a woman. The driver faces charges including homicide by vehicle while driving under the influence of suspected methamphetamines.

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

Our bill will establish within the FMCSA a national drug and alcohol database and clearinghouse listing positive alcohol and drug test results or test refusals by commercial truck and bus drivers. The bill will expand current drug and alcohol testing regulations to require Medical Review Officers, MROs, and other FMCSA-approved agents conducting already-required testing to report positive test results and test refusals to the FMCSA drug and alcohol clearinghouse. Employers seeking new employees would then be required to not only follow the laws already in place for testing prospective employees, but they would also be required to examine the prospective employees' record in the FMCSA clearinghouse to determine if the prospective employee has recently failed or refused to take a drug and alcohol test. If the prospective employee has a positive test result or test refusal in the clearinghouse, an employer would not be allowed to hire the prospective employee unless it can be proven that he or she has not violated

the requirements of the testing program, or that he or she has fully completed a return-to-duty program as required by the testing program.

There are major loopholes that exist today in the current drug and alcohol testing regime. Drivers have a tendency to ''job-hop'' after failing drug and alcohol tests, moving from one company to another without reporting past drug and alcohol test failures. Some States have since closed this loophole by establishing clearinghouses similar to our proposal, but not all States have these laws, and they do not do anything to prevent drivers with past drug and alcohol test failures from moving State-to-State to seek and gain employment. Our legislation would go to considerable lengths in closing both of these well-known and well-reported loopholes. Our bill would also provide extensive privacy protection for individuals whose data is collected at the clearinghouse or accessed from the clearinghouse. The bill would provide individuals with the means to challenge records in the clearinghouse and rights of actions against those who misuse information contained in the clearinghouse or accessed from the clearinghouse.

The Government Accountability Office, GAO, and the FMCSA have acknowledged these loopholes. Both have published reports describing a national clearinghouse as a feasible, cost-effective measure to address this problem and improve highway safety. In addition, a clearinghouse is something that Congress has examined since implementing drug and alcohol testing requirements in 1995. In 1999, Congress required the FMCSA to evaluate the viability of a national clearinghouse database for positive test results and test refusals, and in 2004 the results of their study supported a need for such a system and revealed the safety benefits that would come from it. As recently as last year, the GAO released a report to Congress titled 'Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road' that recommended the establishment of a national database and clearinghouse of drivers who have tested positive or refused to test. There is a clear need to close these well-known loopholes, and I believe our bill goes a long way in that direction.

It is my hope that Congress will support this legislation and move forward quickly to enact this legislation. I believe it is an imperative step to enhance drug and alcohol testing requirements and improve pre-employment background reviews to reduce the number of accidents and needless deaths resulting from drivers that are under the influence of these types of substances.

I want to thank Senators SNOWE, NELSON of Nebraska, and WICKER for their hard work, leadership and support on this very important safety issue, and I urge the rest of my colleagues to support its swift passage.

By Mr. DURBIN (for himself and Mr. BURR):

S. 1114. A bill to establish a demonstration project to provide for patient-centered medical homes to improve the effectiveness and efficiency in providing medical assistance under the Medicaid program and child health assistance under the State Children's Health Insurance Program; to the Committee on Finance.

Mr. DURBIN. Mr. President, I rise to introduce legislation with Senator BURR to help States improve quality and reduce the costs of health care for Medicaid and CHIP enrollees. The Medical Homes Act would create a pilot project in Medicaid and the State Children's Health Insurance Program to encourage hospitals and health clinics to create a medical home for the low-income people they serve.

Those of us who have a medical home take it for granted. We see the same doctor, in the same setting, for extended periods of time. Our medical history is in one place, and even if we are seeing specialists or different doctors in the same practice, there is continuity in decisions about our health care.

But many people do not have this luxury. Think about people who move from place to place whose home lives are less than stable, who do not have health insurance, whose medical care is sporadic. For these members of our community, each visit to a clinic or an emergency room means starting over again.

Everyone should have access to a medical home, but it requires some changes in behavior and expectations and, perhaps most importantly, it requires a commitment by local providers to work together. The medical home model makes sense for improving health care for everyone. And it is a model of care that makes sense for stretching our limited Federal health care dollars.

States like Illinois and North Carolina are already seeing progress with implementing the medical home model. Illinois Health Connect is a new program at the Illinois Department of Healthcare and Family Services that uses the medical home model to deliver primary and preventive care for children and adults covered through the All Kids program. This emphasis on coordinated and ongoing care is leading to better health outcomes, and it is saving money.

Community Care of North Carolina launched a medical home model in 1998, through nine physician-led networks. North Carolina started by creating medical homes for 250,000 Medicaid enrollees. Today, it is a state-wide program that has saved the State at least $60 million in Medicaid costs in 2003 and $120 million in 2004.

Cost savings is not the only benefit. Several studies show that the medical home approach improves quality of care. Early analyses are finding that having regular access to a particular physician through the medical home is associated with earlier and more accurate diagnoses, fewer emergency room visits, fewer hospitalizations, lower costs, better care, and increased patient satisfaction. Many studies conclude that having both health insurance and a medical home leads to improved overall health for the entire population, which brings down the cost of care and reduces health care disparities.

The bill that Senator BURR and I introduce today would make it easier for other States to implement a medical home model, much like Illinois and North Carolina have. Congress passed a medical home demonstration project for Medicare last year. The Medical Homes Act of 2009 would do this for Medicaid and SCHIP beneficiaries by making Federal funding available for a demonstration project in 8 States to provide care through patient-centered medical homes.

The approach we propose requires a per-member, per-month care management fee to help pay for participating doctors and provides initial start-up funding for participating states. The start-up funds are used for the purchase of health information technology, primary care case managers, and other uses appropriate for the delivery of patient-centered care.

This is a critical time in our country We have a President who wants health care reform. We have a Congress ready to act. We have an historic level of cooperation among stakeholders. Unlike the last time, there is substantial agreement this time among insurers, employers, consumers and lawmakers on the need for change and the broad outlines of reform. Change will only happen if everyone—doctors, patients, insurance companies, everyone—work with each other, not against each other. The specifics of the reform package still have to be worked out—and that will be difficult. But there is broad agreement that we must do a better job of delivering health care, not just treatment for illness.

If patients, provider, payers, and the government continue to work together to create a system that values the patient more than payments and the health outcome of the patient more than the number of patients seen, we can really change the way primary care is provided. I urge my colleagues to support the Medical Homes Act of 2009 and help stabilize health care delivery for low-income Americans.

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. 1114

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 ''Medical Homes Act of 2009''.

SEC. 2. FINDINGS.

Congress finds the following:

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

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

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

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

(5) Medical homes reduce duplicative health services and inappropriate emergency room use. In 1998, North Carolina launched the Community Care of North Carolina (CCNC) program, which employs the medical home concept. Presently, CCNC has developed 14 regional networks that include all of the Federally qualified health centers in the State and cover 740,000 recipients. An analysis conducted by Mercer Human Resources Consulting Group found that CCNC resulted in $244,000,000 in savings to the Medicaid program in 2004, with similar results in 2005 and 2006.

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

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

(a) DEFINITIONS.—In this section:

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

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

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

(C) seeks guidance from—

(i) a steering committee; and

(ii) a medical management committee; and

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

(2) HEALTH CENTER.—The term ''health center'' has the meaning given that term in section 330(a) of the Public Health Service Act (42 U.S.C. 254b(a)).

(3) MEDICAID.—The term ''Medicaid'' means the program for medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(4) MEDICAL MANAGEMENT COMMITTEE.—The term ''medical management committee'' means a group of practitioners that—

(A) provides services in the community in which the practice or health center is located;

(B) reviews evidence-based practice guidelines;

(C) selects targeted disease and care processes that address health conditions in the community (as identified in the National or State health assessment or as outlined in ''Healthy People 2010'', or any subsequent similar report (as determined by the Secretary));

(D) defines programs to target disease and care processes;

(E) establishes standards and measures for patient-centered medical homes, taking into account nationally-developed standards and measures; and

(F) makes the determination described in subparagraph (A)(iii) of paragraph (5), taking into account the considerations under subparagraph (B) of such paragraph.

(5) PATIENT-CENTERED MEDICAL HOME.—

(A) IN GENERAL.—The term ''patient-centered medical home'' means a physician-directed practice or a health center that—

(i) incorporates the attributes of the care management model described in paragraph (1);

(ii) voluntarily participates in an independent evaluation process whereby primary care providers submit information to the medical management committee of the relevant network;

(iii) the medical management committee determines has the capability to achieve improvements in the management and coordination of care for targeted beneficiaries (as defined by statewide quality improvement standards and outcomes); and

(iv) meets the requirements imposed on a covered entity for purposes of applying part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and all regulatory provisions promulgated thereunder, including regulations (relating to privacy) adopted pursuant to the authority of the Secretary under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(B) CONSIDERATIONS.—In making the determination under subparagraph (A)(iii), the medical management committee shall consider the following:

(i) ACCESS AND COMMUNICATION WITH PATIENTS.—Whether the practice or health center applies both standards for access to care for, and standards for communication with, targeted beneficiaries who receive care through the practice or health center.

(ii) MANAGING PATIENT INFORMATION AND USING INFORMATION MANAGEMENT TO SUPPORT PATIENT CARE.—Whether the practice or health center has readily accessible, clinically useful information on such beneficiaries that enables the practice or health center to provide comprehensive and systematic treatment.

(iii) MANAGING AND COORDINATING CARE ACCORDING TO INDIVIDUAL NEEDS.—Whether the practice or health center—

(I) maintains continuous relationships with such beneficiaries by implementing evidence-based guidelines and applying such guidelines to the identified needs of individual beneficiaries over time and with the intensity needed by such beneficiaries;

(II) assists in the early identification of health care needs;

(III) provides ongoing primary care;

(IV) coordinates with a broad range of other specialty, ancillary, and related services; and

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

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

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

(II) assesses patient-specific barriers; and

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

(v) RESOURCES TO MANAGE CARE.—Whether the practice or health center has in place the resources and processes necessary to achieve improvements in the management and coordination of care for targeted beneficiaries who receive care through the practice or health center.

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

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

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

(6) PERSONAL PRIMARY CARE PROVIDER.—The term ''personal primary care provider'' means—

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

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

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

(B) a health center that—

(i) is a patient-centered medical home; and

(ii) has providers on staff that have received the training described in subparagraph (A)(ii).

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

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

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

(10) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

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

(A) that implements State-level initiatives;

(B) that develops local improvement initiatives;

(C) whose mission is to—

(i) investigate questions related to community-based practice; and

(ii) improve the quality of primary care; and

(D) whose membership—

(i) represents the health care delivery system of the community it serves; and

(ii) includes physicians (with an emphasis on primary care physicians) and at least 1 representative from each part of the collaborative or network (such as a representative from a health center, a representative from the health department, a representative from social services, and a representative from each public and private hospital in the collaborative or the network).

(12) TARGETED BENEFICIARY.—

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

(B) PARTICIPATION IN PATIENT-CENTERED MEDICAL HOME.—Individuals who are eligible for benefits under Medicaid or CHIP in a State that has been selected to participate in the project shall receive care through a patient-centered medical home when available.

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

(b) ESTABLISHMENT.—The Secretary shall establish a demonstration project under Medicaid and CHIP for the implementation of a patient-centered medical home program that meets the requirements of subsection (d) to improve the effectiveness and efficiency in providing medical assistance under Medicaid and CHIP to an estimated 500,000 to 1,000,000 targeted beneficiaries.

(c) PROJECT DESIGN.—

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

(2) SITES.—

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

(i) four of which already provide medical assistance under Medicaid for primary care case management services as of the date of enactment of this Act; and

(ii) four of which do not provide such medical assistance.

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

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

(3) GRANTS AND PAYMENTS.—

(A) DEVELOPMENT GRANTS.—

(i) FIRST YEAR DEVELOPMENT GRANTS.—The Secretary shall award development grants to States participating in the project during the first year the project is conducted. Grants awarded under this clause shall be used by a participating State to—

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

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

(ii) SECOND YEAR FUNDING.—The Secretary shall award additional grant funds to States that received a development grant under clause (i) during the second year the project is conducted if the Secretary determines such funds are necessary to ensure continued participation in the project by the State. Grant funds awarded under this clause shall be used by a participating State to assist in making the payments described in paragraph (B). To the extent a State uses such grant funds for such purpose, no matching payment may be made to the State for the payments made with such funds under section 1903(a) or 2105(a) of the Social Security Act (42 U.S.C. 1396b(a); 1397ee(a)).

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

(i) PAYMENTS TO PERSONAL PRIMARY CARE PROVIDERS.—

(I) IN GENERAL.—Subject to subsection (d)(6)(B), a State participating in the project shall pay a personal primary care provider not less than $2.50 per month per targeted beneficiary assigned to the personal primary care provider, regardless of whether the provider saw the targeted beneficiary that month.

(II) FEDERAL MATCHING PAYMENT.—Subject to subparagraph (A)(ii), amounts paid to a personal primary care provider under subclause (I) shall be considered medical assistance or child health assistance for purposes of section 1903(a) or 2105(a), respectively, of the Social Security Act (42 U.S.C. 1396b(a); 1397ee(a)).

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

(ii) PAYMENTS TO STEERING COMMITTEES.—

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

(II) FEDERAL MATCHING PAYMENT.—Subject to subparagraph (A)(ii), amounts paid to a steering committee under subclause (I) shall be considered medical assistance or child health assistance for purposes of section 1903(a) or 2105(a), respectively, of the Social Security Act (42 U.S.C. 1396b(a); 1397ee(a)).

(III) USE OF FUNDS.—Amounts paid to a steering committee under subclause (I) shall be used (in accordance with any applicable Medicaid requirements) to purchase health information technology, pay primary care case managers, support network initiatives, and for such other uses as the steering committee determines appropriate.

(4) TECHNICAL ASSISTANCE.—The Secretary shall make available technical assistance to States, physician practices, and health centers participating in the project during the duration of the project.

(5) BEST PRACTICES INFORMATION.—The Secretary shall collect and make available to States participating in the project information on best practices for patient-centered medical homes.

(d) PATIENT-CENTERED MEDICAL HOME PROGRAM.—

(1) IN GENERAL.—For purposes of this section, a patient-centered medical home program meets the requirements of this subsection if, under such program, targeted beneficiaries have access to a personal primary care provider in a patient-centered medical home as their source of first contact, comprehensive, and coordinated care for the whole person.

(2) ELEMENTS.—

(A) MANDATORY ELEMENTS.—

(i) IN GENERAL.—Such program shall include the following elements:

(I) A steering committee.

(II) A medical management committee.

(III) A network of physician practices and health centers that have volunteered to participate as patient-centered medical homes to provide high-quality care, focusing on preventive care, at the appropriate time and place and in a cost-effective manner.

(IV) Hospitals and local public health departments that will work in cooperation with the network of patient-centered medical homes to coordinate and provide health care.

(V) Primary care case managers to assist with care coordination.

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

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

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

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

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

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

(A) to increase—

(i) cost efficiencies of health care delivery;

(ii) access to appropriate health care services, especially wellness and prevention care, at times convenient for patients;

(iii) patient satisfaction;

(iv) communication among primary care providers, hospitals, and other health care providers;

(v) school attendance; and

(vi) the quality of health care services (as determined by the relevant steering committee and medical management committee, taking into account nationally developed standards and measures); and

(B) to decrease—

(i) inappropriate emergency room utilization, which can be accomplished through initiatives, such as expanded hours of care throughout the program network;

(ii) avoidable hospitalizations; and

(iii) duplication of health care services provided.

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

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

(A) the patient-centered medical home program;

(B) the providers participating in such program; and

(C) the benefits of such program.

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

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

(i) ensure that the private entity follows the care management model; and

(ii) establish a medical management committee and a steering committee in the community.

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

(e) EVALUATION AND PROJECT REPORT.—

(1) IN GENERAL.—

(A) EVALUATION.—The Secretary, in consultation with appropriate health care professional associations, shall evaluate the project in order to determine the effectiveness of patient-centered medical homes in terms of quality improvement, patient and provider satisfaction, and the improvement of health outcomes.

(B) PROJECT REPORT.—Not later than 12 months after completion of the project, the Secretary shall submit to Congress a report on the project containing the results of the evaluation conducted under subparagraph (A). Such report shall include—

(i) an assessment of the differences, if any, between the quality of the care provided through the patient-centered medical home program conducted under the project in the States that provided medical assistance for primary care case management services and those that did not;

(ii) an assessment of quality improvements and clinical outcomes as a result of such program;

(iii) estimates of cost savings resulting from such program; and

(iv) recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

(2) SENSE OF THE SENATE.—It is the sense of the Senate that titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq.; 1397aa et seq.) should be amended, based on the results of the evaluation and report under paragraph (1), to establish a patient-centered medical home program under such titles on a permanent basis.

(f) WAIVER.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall waive compliance with such requirements of titles XI, XIX, and XXI of the Social Security Act (42 U.S.C. 1301 et seq.; 1396 et seq.; 1397aa et seq.) to the extent and for the period the Secretary finds necessary to conduct the project.

(2) LIMITATION.—In no case shall the Secretary waive compliance with the requirements of subsections (a)(10)(A), (a)(15), and (bb) of section 1902 of the Social Security Act (42 U.S.C. 1396a) under paragraph (1), to the extent that such requirements require the provision of and reimbursement for services described in section 1905(a)(2)(C) of such Act (42 U.S.C. 1396d(a)(2)(C)).

AMENDMENTS SUBMITTED AND PROPOSED

SA 1145. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table.

SA 1146. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table .

SA 1147. Mr. KYL (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1148. Mr. KYL (for himself, Mr. VITTER, and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1149. Mr. GRAHAM (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1150. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1151. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1152. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1153. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1154. Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1155. Mr. NELSON, of Florida (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1156. Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. BENNETT, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1157. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1158. Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1159. Mr. MCCAIN (for himself, Mr. LUGAR, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1160. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1161. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1162. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1163. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1164. Mr. ISAKSON (for himself, Mr. CHAMBLISS, Mr. DODD, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1165. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1166. Mr. LAUTENBERG (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1167. Mr. BENNET (for himself, Mr. CASEY, and Mr. JOHANNS) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1168. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1169. Mr. LEAHY (for himself, Mr. BROWN, and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1170. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1171. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1172. Mr. VITTER (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1173. Mr. CORKER (for himself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. LUGAR, Mr. ISAKSON, Ms. COLLINS, and Mr. BENNETT) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1174. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1175. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1176. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1177. Ms. LANDRIEU (for herself and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1178. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1179. Mr. KAUFMAN (for himself, Mr. LUGAR, and Mr. REED) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1180. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1181. Mrs. LINCOLN (for herself and Mr. PRYOR) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra.

SA 1182. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1183. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1184. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1185. Mr. MERKLEY (for himself and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1186. Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1187. Mr. WYDEN (for himself, Ms. KLOBUCHAR, Mr. GRASSLEY, Mr. ROBERTS, and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1188. Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1189. Mrs. HUTCHISON (for herself, Mr. BROWN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. COCHRAN, Mr. BOND, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra.

SA 1190. Mr. REID (for Mr. KENNEDY (for himself and Mr. CARDIN)) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1191. Mr. LEAHY (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1192. Mr. COBURN (for himself and Mr. DEMINT) submitted an amendment intended