

(Mr. INHOFE) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of amendment No. 1597 proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

## AMENDMENT NO. 1599

At the request of Mr. BEGICH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of amendment No. 1599 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

## AMENDMENT NO. 1618

At the request of Mr. THUNE, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Idaho (Mr. RISCH), the Senator from Mississippi (Mr. COCHRAN) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of amendment No. 1618 proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

## AMENDMENT NO. 1621

At the request of Mrs. SHAHEEN, the names of the Senator from Missouri (Mr. BOND) and the Senator from Missouri (Mrs. McCASKILL) were added as cosponsors of amendment No. 1621 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

## AMENDMENT NO. 1628

At the request of Ms. COLLINS, her name was added as a cosponsor of amendment No. 1628 proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

At the request of Mr. BENNETT, his name was added as a cosponsor of amendment No. 1628 proposed to S. 1390, *supra*.

## AMENDMENT NO. 1635

At the request of Mr. SCHUMER, the names of the Senator from Virginia (Mr. WEBB), the Senator from Wyoming (Mr. ENZI), the Senator from Oregon

(Mr. MERKLEY) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of amendment No. 1635 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

## AMENDMENT NO. 1637

At the request of Mr. PRYOR, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 1637 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

## By Mrs. McCASKILL:

S. 1476. A bill to require all new and upgraded fuel pumps to be equipped with automatic temperature compensation equipment, and for other purposes; to the Committee on Commerce, Science, and Transportation.

## Mrs. McCASKILL.

Mr. President, today I am here to talk about a simple bill that would correct a serious injustice.

Each year U.S. consumers spend \$2.57 billion more than they should for gasoline and diesel fuel. This is because they are buying hot fuel. The physics behind hot fuel are fairly simple. Retailers currently measure our gasoline as it is stored at 60 degrees Fahrenheit. However, if the temperature increases, as it often does during the summer or in warm climates, the gasoline expands so that consumers are getting less energy per gallon of fuel. Yet, when consumers buy hot fuel, they are paying the same amount even though they are getting less energy.

This problem can be easily solved by installing temperature compensating equipment that will regulate the distribution of fuel based on its temperature at the time of purchase. A similar policy was implemented in Canada 15 years ago because retailers were losing money due to the cold temperature of the fuel they were selling; and earlier this year, the U.S. retailer Costco Warehouse, LLC agreed to install this temperature compensating equipment as a result of a legal settlement.

Today, I am introducing legislation that would require all retailers of gasoline to install temperature compensating equipment on their retail fuel pumps. The Future Accountability in Retail Fuel Act of 2009, or the FAIR Fuel Act, is not intended to be onerous. It would simply require that within 6 years after enactment of this legislation all retail gasoline pumps would in-

clude automatic temperature compensating equipment. Prior to that 6 year timeline, if a retailer replaces their pumps, they must replace it with a pump that will be able to compensate for temperature fluctuations. Rural retail gasoline owners are exempt from this replacement requirement and the bill provides grant assistance for small retail owners to retrofit or purchase pumps with temperature compensating equipment.

American families deserve to be treated fairly. They deserve to get what they pay for. With the current economic crisis and the high prices of gasoline, every penny we can save the consumer will go along way to helping them survive these tough times. This legislation will help to achieve this goal. It will finally give consumers the fairness they deserve.

I am pleased that this bill has been endorsed by the Owner-Operator Independent Drivers Association, OOIDA, USPIRG and Consumer Watchdog. I look forward to working with the members of the Commerce Committee and the full Senate in getting this legislation passed. I think we owe it to the American consumers.

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. 1476

*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 “Future Accountability in Retail Fuel Act” or the “FAIR Fuel Act”.

## SEC. 2. DEFINITIONS.

In this Act:

(1) AUTOMATIC TEMPERATURE COMPENSATION EQUIPMENT.—The term “automatic temperature compensation equipment” has the meaning given the term in the National Institute of Standards and Technology Handbook 44.

(2) EQUIVALENT STANDARD.—The term “equivalent standard” means any standard that prohibits the retail sale of gasoline with energy content per gallon that is different than the energy content of 1 gallon of gasoline stored at 60 degrees Fahrenheit.

(3) RURAL AREA.—The term “rural area” means any area other than—

(A) a city, town, or unincorporated area that has a population of greater than 50,000 inhabitants; or

(B) the urbanized area that is contiguous and adjacent to such a city, town, or unincorporated area.

(4) SMALL-VOLUME STATION.—The term “small-volume station” means any retail fuel establishment that dispenses fewer than 360,000 gallons of gasoline and diesel fuel per year.

## SEC. 3. AUTOMATIC TEMPERATURE COMPENSATION EQUIPMENT.

(a) IN GENERAL.—

(1) NEW MOTOR FUEL DISPENSERS.—Beginning 180 days after the issuance of final regulations under subsection (c), all motor fuel dispensers that are newly installed or upgraded at any retail fuel establishment in the United States shall be equipped with automatic temperature compensation equipment to ensure that any volume of gasoline

or diesel fuel measured by such dispenser for retail sale is equal to the volume that such quantity of fuel would equal at the time of such sale if the temperature of the fuel was 60 degrees Fahrenheit.

(2) EXISTING MOTOR FUEL DISPENSERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 5 years after the issuance of final regulations under subsection (c), all motor fuel dispensers at any retail fuel establishment in the United States shall be equipped with the automatic temperature compensation equipment described in paragraph (1).

(B) SMALL-VOLUME STATIONS.—Small-volume stations located in rural areas shall not be subject to the requirement under subparagraph (A).

(b) INSPECTIONS.—

(1) ANNUAL INSPECTION.—Beginning on the date described in subsection (a), State inspectors conducting an initial or annual inspection of motor fuel dispensers are authorized to determine if such dispensers are equipped with the automatic temperature compensation equipment required under subsection (a).

(2) NOTIFICATION.—If the State inspector determines that a motor fuel dispenser does not comply with the requirement under subsection (a), the State inspector is authorized to notify the Federal Trade Commission, through an electronic notification system developed by the Commission, of such non-compliance.

(3) FOLLOW-UP INSPECTION.—Not earlier than 180 days after a motor fuel dispenser is found to be out of compliance with the requirement under subsection (a), the Federal Trade Commission shall coordinate a follow-up inspection of such motor fuel dispenser.

(4) FINE.—

(A) IN GENERAL.—The owner or operator of any retail fuel establishment with a motor fuel dispenser subject to the requirement under subsection (a) that is determined to be out of compliance with such requirement shall be subject to a fine equal to \$5,000 for each noncompliant motor fuel dispenser.

(B) ADDITIONAL FINE.—If a motor fuel dispenser is determined to be out of compliance during a follow-up inspection, the owner or operator of the retail fuel establishment at which such motor fuel dispenser is located shall be subject to an additional fine equal to \$5,000.

(5) USE OF FINES.—Any amounts collected under paragraph (4) shall be deposited into the trust fund established under section 4.

(c) RULEMAKING.—

(1) COMMENCEMENT.—Not later than 90 days after the date of the enactment of this Act, the Federal Trade Commission, in consultation with the National Institute of Standards and Technology, shall commence a rulemaking procedure to implement the requirement under subsection (a).

(2) FINAL REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, the Federal Trade Commission shall issue final regulations to implement the requirement under subsection (a), including specifying which volume correction factor tables shall be used for the range of gasoline and diesel fuel products that are sold to retail customers in the United States.

**SEC. 4. AUTOMATIC TEMPERATURE COMPENSATION EQUIPMENT GRANT PROGRAM.**

(a) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the “Automatic Temperature Compensation Equipment Trust Fund” (referred to in this section as the “Trust Fund”).

(2) TRANSFERS.—The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury an

amount equal to the amount collected as fines under section 3(b)(4).

(3) INVESTMENT.—The Secretary of the Treasury shall invest such portion of the Trust Fund as is not required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States.

(b) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Commerce is authorized to use amounts in the Trust Fund for grants to owners and operators of retail fuel establishments to offset the costs associated with the installation of automatic temperature compensation equipment on motor fuel dispensers.

(2) MAXIMUM AMOUNT.—The Secretary may not award a grant under this subsection in excess of—

- (A) \$1,000 per motor fuel dispenser; or
- (B) \$10,000 per grant recipient.

(3) ELIGIBLE RECIPIENTS.—An owner or operator of not more than 5 retail fuel establishments is eligible to receive a grant under this subsection.

(4) USE OF GRANT FUNDS.—Grant funds received under this subsection may be used to offset the costs incurred by owners and operators of retail establishments to acquire and install automatic temperature compensation equipment in accordance with the requirement under section 3(a).

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(c) REIMBURSEMENT OF STATE INSPECTION COSTS.—The Secretary of Commerce is authorized to use amounts in the Trust Fund to reimburse States for the costs incurred by the States to—

(1) inspect motor fuel dispensers for compliance with the requirement under section 3(a); and

(2) notify the Secretary of Commerce of any noncompliance with such requirement.

**SEC. 5. SAVINGS PROVISION.**

Nothing in this Act may be construed to preempt a State from enacting a law that imposes an equivalent standard or a more stringent standard concerning the retail sale of gasoline at certain temperatures.

By Mr. FEINGOLD:

S. 1477. A bill to establish a user fee for follow-up reinspections under the Federal Food, Drug, and Cosmetic Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, today I am introducing a bill that would charge a reinspection fee for goods that fail FDA inspection for good manufacturing practices. Currently, businesses do not have to pay for the second inspection if they fail. Essentially, then, the FDA is absorbing this extra cost. This Nation faces difficult enough choices without subsidizing private companies that fail basic inspections. I am pleased to credit the Bush administration for originally proposing this fee, which is again proposed in President Obama's fiscal year 2010 budget. This fee carries proposed savings of an estimated \$24 million per year, and could save as much as \$115 million over 5 years.

We must ensure that U.S. taxpayer money is being used efficiently and effectively, and this measure would help in our ongoing efforts to streamline government programs and reduce the Federal budget deficit. FDA Commis-

sioner Andrew von Eschenbach testified about these fees before the House Agriculture, Rural Development, and FDA Appropriations Subcommittee in 2006. He believes, and I agree, that the reinspection fee will motivate businesses to comply with long-established health and safety standards. Businesses that do not meet Federal standards should bear the burden of the reinspection, rather than getting a free pass at the taxpayer's expense.

One of the main reasons I first ran for the U.S. Senate was to restore fiscal responsibility to the Federal budget. I have worked throughout my Senate career to eliminate wasteful spending and to reduce the budget deficit. Unless we return to fiscally responsible budgeting, Congress will saddle our nation's younger generations with an enormous financial burden for years to come. This bill is one small step in that direction.

By Mr. KOHL (for himself, Mr. FEINGOLD, Mr. KERRY, Mr. DURBIN, Mr. BEGICH, Mr. BINGAMAN, and Mr. TESTER):

S. 1480. A bill to amend the Child Nutrition Act of 1966 to establish a program to improve the health and education of children through grants to expand school breakfast programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, today I join with Senator KOHL to introduce the Student Breakfast and Education Improvement Act as part of my continued efforts to improve student achievement in our Nation's schools. One part of student performance that is often overlooked is nutrition, which can have a significant impact on student achievement. I know many of my colleagues share my support for school programs that help alleviate hunger for the most in-need students, such as the Free and Reduced Price Lunch Program, as well as those programs that provide more nutritious food, such as the Fresh Fruit and Vegetable Snack program.

I am sure that I am not the only member of this body who grew up hearing that breakfast is the most important meal of the day. I was lucky never to have to worry about going hungry, and my parents did not have to choose between giving their children lunch or breakfast. The fact is, that is a choice many parents do have to make today, even if they get the help of reduced price meals. The current economic difficulties and rising unemployment have only increased the burdens facing low income families in Wisconsin and around the country as they struggle to provide nutritious meals for their children.

The Student Breakfast and Education Improvement Act would provide grants for schools wishing to begin or expand universal school breakfast programs. Studies show that kids who eat breakfast perform better in school and

on tests, and they tend to be less disruptive to the class. I have heard many stories from teachers, school nurses, and other school officials over the years to confirm this. In fact, in my home State of Wisconsin, the Milwaukee Public Schools have been working with the Hunger Task Force for the past few years to implement universal school breakfast programs, which they have in place now in more than 80 schools. This program, which has expanded in its second year, has proven popular with students, teachers, and parents.

This bill would target the most in-need schools—those with 65 percent or more of students eligible for the free and reduced price lunch program—with the funds necessary to implement a universal free breakfast program. The grants, which could be used in a number of ways, aim to help schools overcome the numerous barriers faced in trying to create a school breakfast program.

Our Nation faces a series of pressing education challenges in its schools, including most significantly a large achievement gap and graduation rate gap among minority and low income students. After decades of civil rights struggles, public education should provide all our students with access to equal opportunities, but the quality of public education provided to students of color and low-income students in urban and rural Wisconsin and around the country still does not come close to affording many of these students an equal chance for success. Too often these students learn in crumbling and outdated buildings, they do not have the same access to high quality technology in their classrooms, they are taught by the least experienced teachers, and they often do not have adequate access to important resources like school counselors and nurses.

These and a number of other factors contribute to the achievement gap in our Nation's schools and the Federal Government can help to address this gap by promoting smarter and more flexible accountability structures and increased supports for schools during the upcoming reauthorization of the Elementary and Secondary Education Act. Congress should also help to address some of the many other issues facing our nation's students living in poverty issues that may not seem directly related to education, but impact the academic growth of students including hunger, affordable housing, and crime. This bill takes an important step to address hunger and also seeks to improve nutrition education by providing funds to expand school breakfast programs, boost collaboration between local farmers and schools, expand service-learning opportunities in our classrooms, and improve nutrition education programming for students.

In this economy, more and more parents are forced to make these kinds of decisions, and the school meal programs can provide a tremendous relief.

As we look forward to reauthorizing the Child Nutrition Act, it is vital that we take stock of the successes and limitations of existing programs. School breakfast faces a number of hurdles that, quite simply, other school feeding programs do not. Chief of those is time. For some students, getting to school early is impossible; for some, the lure of breakfast is not a strong enough draw to get up earlier. These are problems that schools across the country are facing and solving with creativity and dedication. This legislation will help support the innovative work going on in some of our nation's schools and will help to scale up successful nutrition programs in other schools so that hopefully one day, none of America's students will start the school day hungry.

By Mr. NELSON, of Florida (for himself and Mr. MARTINEZ):

S. 1484. A bill to amend the Internal Revenue Code of 1986 to create Catastrophe Savings Accounts; to the Committee on Finance.

Mr. NELSON of Florida. Mr. President, last year we were all transfixed by the non-stop news coverage of Hurricanes Gustav and Ike as they grew into monster storms, crossing the Caribbean and Gulf of Mexico and leaving a trail of misery in their wake. Ike, the third most destructive storm in the history of the U.S., made landfall in Galveston, Texas, and then tracked through Arkansas, Illinois, Indiana, Missouri, Ohio, and Pennsylvania, killing 112 people and causing more than \$24 billion in damage.

Since 2003, hurricanes and other tropical cyclones have caused more than 2,000 deaths in the U.S. Forty percent of all hurricanes that make landfall in the U.S. hit Florida.

Insured losses from hurricanes average more than \$5.2 billion per year. A recent study of hurricane-related damages over the last century suggests that economic losses will double every 10 years. With more than 50 percent of the U.S. population living within 50 miles of the coast, and with 180 million people visiting the coast annually, the risks to life and property are growing.

Hurricanes, however, do not just impact the coasts. These extreme events also have national consequences, such as increased fuel prices, displaced populations, and severe inland flooding.

The American public is increasingly aware of the potential for high recovery costs and financing of natural disaster losses. I cannot overstate the importance of prior preparation and insurance coverage for large catastrophic risks—including natural disasters such as hurricanes and earthquakes—as well as efforts to promote a stable, affordable catastrophic insurance market.

This is why today Senator MARTINEZ and I are introducing four bills: the Commission on Catastrophic Disaster Risk and Insurance Act of 2009, S. 1487, the Policyholder Disaster Protection Act of 2009, S. 1486, the Catastrophe

Savings Accounts Act of 2009, S. 1484, and the National Hurricane Research Initiative Act of 2009, 1485. These bills take a pro-active approach in addressing these natural catastrophe concerns.

The National Hurricane Research Initiative Act of 2009 will expand the scope of fundamental research on hurricanes. The bill is aimed at improving hurricane forecasting and tracking and helping us find better ways to mitigate their impact. The Act will establish a National Science Foundation (NSF) grant program for hurricane and tropical cyclone research and bring together a task force, jointly chaired by the National Oceanic and Atmospheric Administration, NOAA, the National Institute of Standards and Technology, NIST, and NSF.

The second bill, the Commission on Catastrophic Disaster Risk and Insurance Act of 2009, establishes the bipartisan Commission on Catastrophic Disaster Risk and Insurance. This commission will assess the condition of the property and casualty insurance and reinsurance markets in the aftermath of Hurricanes Katrina, Rita, and Wilma in 2005, as well as the four major hurricanes that struck the U.S. in 2004. It will also evaluate the country's ongoing exposure to earthquakes, volcanic eruptions, tsunamis, and floods. Finally, the commission will recommend and report legislative and regulatory changes that will improve the domestic and international financial health and competitiveness of property and casualty insurance markets, assuring the availability of adequate insurance when an insured event occurs, as well as the best possible range of insurance products at competitive prices.

The Policyholder Disaster Protection Act of 2009 amends the Internal Revenue Code to allow property and casualty insurance companies to create tax-exempt disaster protection funds and to make tax deductible contributions to those funds for the payment of policyholders' claims arising from certain catastrophic events, such as windstorms, earthquakes, fires, and floods.

Finally, the Catastrophe Savings Accounts Act of 2009 amends the Internal Revenue Code to create tax-exempt catastrophe savings accounts. Individuals could take tax-free distributions from these accounts to pay expenses resulting from a presidentially declared major disaster. The bill limits catastrophe savings account balances to \$2,000 for individuals with homeowner insurance deductibles of not more than \$1,000, and the lesser of \$15,000 or twice the homeowner's insurance deductible for individuals with deductibles of more than \$1,000.

As I mentioned at the beginning of my remarks, the entire country experiences financial losses when hurricanes hit. It is time for us to take the bull by the horns and pass legislation that plans in advance for these and other natural disasters.

As we are in the hurricane season, it will become painfully apparent just

how precarious a lot of the construction is, how precarious building codes are not being fairly and judiciously administered, and it will become evident what an economic disaster even a mild hurricane can cause when it hits the coast. And Lord knows, if the big one hits an urbanized part of the coast—and the big one is a category 4 or a category 5 hurricane—it is going to create economic chaos. It is going to cause the insurance industry to be on the brink of total collapse. And it will ultimately, just like Katrina, end up having the U.S. Government pay a major part of the economic bailout consequences of a natural disaster, such as a hurricane or an earthquake hitting the United States. We ought to get ahead of it and we ought to plan for it, and that is what this package of four bills Senator MARTINEZ and I are offering will do.

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 was ordered to be printed in the RECORD, as follows:

S. 1484

*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 "Catastrophe Savings Accounts Act of 2009".

#### SEC. 2. CATASTROPHE SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subchapter F of Chapter 1 of the Internal Revenue Code of 1986 (relating to exempt organizations) is amended by adding at the end the following new part:

#### PART IX—CATASTROPHE SAVINGS ACCOUNTS

##### SEC. 530A. CATASTROPHE SAVINGS ACCOUNTS.

"(a) GENERAL RULE.—A Catastrophe Savings Account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

"(b) CATASTROPHE SAVINGS ACCOUNT.—For purposes of this section, the term 'Catastrophe Savings Account' means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries and which is designated (in such manner as the Secretary shall prescribe) at the time of the establishment of the trust as a Catastrophe Savings Account, but only if the written governing instrument creating the trust meets the following requirements:

"(1) Except in the case of a qualified rollover contribution—

"(A) no contribution will be accepted unless it is in cash, and

"(B) contributions will not be accepted in excess of the account balance limit specified in subsection (c).

"(2) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(3) The interest of an individual in the balance of his account is nonforfeitable.

"(4) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

"(c) ACCOUNT BALANCE LIMIT.—The aggregate account balance for all Catastrophe Savings Accounts maintained for the benefit of an individual (including qualified rollover contributions) shall not exceed—

"(1) in the case of an individual whose qualified deductible is not more than \$1,000, \$2,000, and

"(2) in the case of an individual whose qualified deductible is more than \$1,000, the amount equal to the lesser of—

"(A) \$15,000, or

"(B) twice the amount of the individual's qualified deductible.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CATASTROPHE EXPENSES.—The term 'qualified catastrophe expenses' means expenses paid or incurred by reason of a major disaster that has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

"(2) QUALIFIED DEDUCTIBLE.—With respect to an individual, the term 'qualified deductible' means the annual deductible for the individual's homeowners' insurance policy.

"(3) QUALIFIED ROLLOVER CONTRIBUTION.—The term 'qualified rollover contribution' means a contribution to a Catastrophe Savings Account—

"(A) from another such account of the same beneficiary, but only if such amount is contributed not later than the 60th day after the distribution from such other account, and

"(B) from a Catastrophe Savings Account of a spouse of the beneficiary of the account to which the contribution is made, but only if such amount is contributed not later than the 60th day after the distribution from such other account.

"(e) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Any distribution from a Catastrophe Savings Account shall be includable in the gross income of the distributee in the manner as provided in section 72.

"(2) DISTRIBUTIONS FOR QUALIFIED CATASTROPHE EXPENSES.—

"(A) IN GENERAL.—No amount shall be includable in gross income under paragraph (1) if the qualified catastrophe expenses of the distributee during the taxable year are not less than the aggregate distributions during the taxable year.

"(B) DISTRIBUTIONS IN EXCESS OF EXPENSES.—If such aggregate distributions exceed such expenses during the taxable year, the amount otherwise includable in gross income under paragraph (1) shall be reduced by the amount which bears the same ratio to the amount which would be includable in gross income under paragraph (1) (without regard to this subparagraph) as the qualified catastrophe expenses bear to such aggregate distributions.

"(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR QUALIFIED CATASTROPHE EXPENSES.—The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from a Catastrophe Savings Account which is includable in gross income shall be increased by 10 percent of the amount which is so includable.

"(4) RETIREMENT DISTRIBUTIONS.—No amount shall be includable in gross income under paragraph (1) (or subject to an additional tax under paragraph (3)) if the payment or distribution is made on or after the date on which the distributee attains age 62.

"(f) TAX TREATMENT OF ACCOUNTS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to any Catastrophe Savings Account."

"(b) TAX ON EXCESS CONTRIBUTIONS.—

"(1) IN GENERAL.—Subsection (a) of section 4973 of the Internal Revenue Code of 1986 (re-

lating to tax on excess contributions to certain tax-favored accounts and annuities) is amended by striking "or" at the end of paragraph (4), by inserting "or" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) a Catastrophe Savings Account (as defined in section 530A)."

(2) EXCESS CONTRIBUTION.—Section 4973 of such Code is amended by adding at the end the following new subsection:

"(h) EXCESS CONTRIBUTIONS TO CATASTROPHE SAVINGS ACCOUNTS.—For purposes of this section, in the case of Catastrophe Savings Accounts (within the meaning of section 530A), the term 'excess contributions' means the amount by which the aggregate account balance for all Catastrophe Savings Accounts maintained for the benefit of an individual exceeds the account balance limit defined in section 530A(c)(1)."

(c) CONFORMING AMENDMENT.—The table of parts for subchapter F of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

#### "PART IX. CATASTROPHE SAVINGS ACCOUNTS."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

S. 1485

*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 "National Hurricane Research Initiative Act of 2009".

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Sense of Congress.

Sec. 4. Definitions.

Sec. 5. National Hurricane Research Initiative.

Sec. 6. National Hurricane Research Task Force.

Sec. 7. National Hurricane Research.

Sec. 8. Authorization of appropriations.

Sec. 9. Independent review.

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Hurricanes and other tropical cyclones have directly caused more than 2,000 deaths in the United States since 2003 and account for approximately 66 percent of insured losses due to natural hazards.

(2) While the ability to understand and predict hurricanes and other tropical cyclones has improved since 1999, particularly with respect to storm tracking, much remains unknown concerning—

(A) storm dynamics, rapid intensity change, and impact on extratropical cyclones;

(B) the interactions of storms with natural and built environments; and

(C) the impacts to and response of society to destructive storms.

(3) Several expert assessments of the state of hurricane science and research needs have been published, including—

(A) the January 2007 report by the National Science Board titled, "Hurricane Warning: The Critical Need for a National Hurricane Initiative";

(B) the February 2007 report by the Office of the Federal Coordinator for Meteorological Services and Supporting Research entitled, "Interagency Strategic Research Plan for Tropical Cyclones: The Way Ahead"; and

(C) reports from the Hurricane Intensity Working Group of the National Science Advisory Board of the National Oceanic and Atmospheric Administration.

(4) In the June 2005 publication, “Grand Challenges for Disaster Reduction”, and in related 2008 implementation plans for hurricane and coastal inundation hazards the Subcommittee on Disaster Reduction of the Committee on Environment and Natural Resources of the National Science and Technology Council prioritized Federal science and technology investments needed to reduce future loss of life and property caused, both directly and indirectly, by hurricanes and other coastal storms.

(5) A National Hurricane Research Initiative complements the objectives of the National Windstorm Impact Reduction Program.

### SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that, consistent with the findings of the expert assessments and strategies described in paragraphs (3) and (4) of section 2, a National Hurricane Research Initiative should be established to address the urgent and compelling need to undertake long-term, coordinated, multi-entity hurricane research focused on—

(1) conducting high priority scientific, engineering, and related social and behavioral studies; and

(2) effectively applying the research results of such studies to mitigate the impacts of hurricanes on society.

### SEC. 4. DEFINITIONS.

In this Act:

(1) **TASK FORCE.**—The term “Task Force” means the National Hurricane Research Task Force established under section 6(a).

(2) **ELIGIBLE ENTITIES.**—The term “eligible entities” means State, regional, and local government agencies and departments, tribal governments, universities, research institutes, and nongovernmental organizations.

(3) **INDIAN TRIBE.**—The term “Indian tribe” has the meaning given the term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

(4) **INITIATIVE.**—The term “Initiative” means the National Hurricane Research Initiative established under section 5(a)(1).

(5) **NATIONAL WINDSTORM IMPACT REDUCTION PROGRAM.**—The term “National Windstorm Impact Reduction Program” means the program established by section 204 of the National Windstorm Impact Reduction Act of 2004 (42 U.S.C. 15703).

(6) **STATE.**—The term “State” means any State of the United States, the District of Columbia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

(7) **TRIBAL GOVERNMENT.**—The term “tribal government” means the governing body of an Indian tribe.

(8) **UNDER SECRETARY.**—The term “Under Secretary” means the Under Secretary for Oceans and Atmosphere.

### SEC. 5. NATIONAL HURRICANE RESEARCH INITIATIVE.

#### (a) ESTABLISHMENT.—

(1) **IN GENERAL.**—The Under Secretary, in collaboration with the Director of the National Science Foundation, shall establish an initiative to be known as the “National Hurricane Research Initiative” for the purposes described in paragraph (2). The Initiative shall consist of—

(A) the activities of the Under Secretary under this section;

(B) the activities of the Task Force under section 6; and

(C) the research carried out under section 7.

(2) **PURPOSES.**—The purposes described in this paragraph are as follows:

(A) To improve understanding and prediction of hurricanes and other tropical storms, including—

(i) storm tracking and prediction;

(ii) forecasting of storm formation, intensity, and wind and rain patterns, both within the tropics and as the storms move poleward;

(iii) storm surge modeling, inland flood modeling, and coastal erosion;

(iv) the interaction with and impacts of storms with the natural and built environment; and

(v) the impacts to and response of society to destructive storms, including the socio-economic impacts requiring emergency management, response, and recovery.

(B) To develop infrastructure that is resilient to the forces associated with hurricanes and other tropical storms.

(C) To mitigate the impacts of hurricanes on coastal populations, the coastal built environment, and natural resources, including—

(i) coral reefs;

(ii) mangroves;

(iii) wetlands; and

(iv) other natural systems that can reduce hurricane wind and flood forces.

(D) To provide training for the next generation of hurricane researchers and forecasters.

#### (b) IMPLEMENTATION PLAN.—

(1) **IN GENERAL.**—Not later than 18 months after the date of the enactment of this Act, the Under Secretary shall develop a detailed, 5-year implementation plan for the Initiative that—

(A) incorporates the priorities for Federal science and technology investments set forth in the June 2005 publication, “Grand Challenges for Disaster Reduction”, and in related 2008 implementation plans for hurricane and coastal inundation hazards of the Subcommittee on Disaster Reduction of the Committee on Environment and Natural Resources of the National Science and Technology Council;

(B) to the extent practicable and as appropriate, establishes benchmarks, milestones, goals, and performance measures to track progress of the research carried out under the Initiative and the application of research results for reducing hurricane losses and related public benefits, as recommended by the Task Force under section 6(f)(2); and

(C) identifies opportunities to leverage the results of the research carried out under section 7 with other Federal and non-Federal hurricane research, coordination, and loss-reduction initiatives, such as—

(i) the National Windstorm Impact Reduction Program established by section 204(a) of the National Windstorm Impact Reduction Act of 2004 (15 U.S.C. 15703);

(ii) the National Flood Insurance Program established under chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.);

(iii) the initiatives of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

(iv) wind hazard mitigation initiatives carried out by a State;

(v) the Hurricane Forecast Improvement Project of the National Oceanic and Atmospheric Administration; and

(vi) the Working Group for Tropical Cyclone Research of the Office of the Federal Coordinator for Meteorological Services and Supporting Research.

(2) **REVIEW.**—Not later than 18 months after the date of the enactment of this Act, the Under Secretary shall ensure that the implementation plan required by paragraph (1) is reviewed by—

(A) the Director of the National Science Foundation;

(B) the Secretary of Homeland Security;

(C) the Director of the National Institute for Standards and Technology;

(D) the Commanding General of the U.S. Army Corps of Engineers;

(E) the Commander of the Naval Meteorology and Oceanography Command;

(F) the Associate Administrator for Science Mission Directorate of the National Aeronautics and Space Administration; and

(G) the Director of the U.S. Geological Survey.

(3) **REVISIONS.**—The Under Secretary shall revise the implementation plan required by paragraph (1) not less frequently than once every 5 years to address and respond to the findings and recommendations of the Task Force.

#### (c) RESEARCH.—

(1) **ESTABLISHMENT OF RESEARCH OBJECTIVES.**—The Under Secretary shall, in consultation with the Director of the National Science Foundation, establish objectives for research carried out pursuant to section 7 that are based on the findings of the expert assessments and strategies described in paragraphs (3) and (4) of section 2.

(2) **COORDINATION.**—In carrying out the provisions of this subsection, the Under Secretary shall coordinate with the Task Force to the extent practicable.

(d) **NATIONAL WORKSHOPS AND CONFERENCES.**—The Under Secretary, in coordination with the Director of the National Science Foundation and the Task Force, shall carry out a series of national workshops and conferences that assemble a broad collection of scientific disciplines—

(1) to address hurricane-related research questions; and

(2) to encourage researchers to work collaboratively to carry out the purposes described in subsection (a)(2).

(e) **PUBLIC INTERNET WEBSITE.**—The Under Secretary, in coordination with the Task Force, shall facilitate the establishment of a public Internet website for the Initiative—

(1) to foster collaboration and interactive dialogues among the Under Secretary, the Director of the National Science Foundation, the Task Force, and the public; and

(2) to enhance public access to Initiative documents and products, including—

(A) information about the members of the Task Force, including their affiliation and contact information;

(B) meeting agenda and minutes of the Task Force;

(C) reports and publications of the Initiative;

(D) the most recent 5-year implementation plan developed under subsection (b); and

(E) the most recent annual report submitted to Congress under subsection (f).

#### (f) ANNUAL REPORT.—

(1) **REQUIREMENT FOR ANNUAL CROSCUT BUDGET AND REPORT.**—The Under Secretary, in conjunction with members of the Task Force who represent Federal agencies, the Office of Science and Technology Policy, and the Office of Management and Budget, shall submit to Congress each year, together with documents submitted to Congress in support of the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of title 31, United States Code), a coordinated annual report for the Initiative for the fiscal year in which the report is submitted and the last fiscal year ending before such submittal.

(2) **CONTENTS.**—The report required by paragraph (1) shall—

(A) document the funds transferred by the Under Secretary to the heads of other Federal agencies under section 8(b); and

(B) document the grants and contracts awarded to eligible entities under section 7;

(C) for each agency that receives funds under section 8(b) and eligible entity that receives a grant or contract under section 7, identify what major activities were undertaken with such funds, grants, and contracts; and

(D) for each research activity or group of activities described in section 7(c), as appropriate, identify any accomplishments, which may include full or partial achievement of benchmarks, milestones, goals, performance measure targets established for the implementation plan under subsection (b)(1)(B).

**SEC. 6. NATIONAL HURRICANE RESEARCH TASK FORCE.**

(a) **ESTABLISHMENT.**—Not later than 90 days after the date of the enactment of this Act, the Under Secretary shall establish a task force to be known as the “National Hurricane Research Task Force” to facilitate and coordinate the efforts of Federal agencies and eligible entities in support of the Initiative.

(b) **MEMBERSHIP.**—The Task Force shall be composed of the following:

(1) The Under Secretary, or the Under Secretary's designee.

(2) The Director of the National Science Foundation, or the Director's designee.

(3) The Director of the National Institute of Standards and Technology, or the Director's designee.

(4) The Secretary of Homeland Security, or the Secretary's designee.

(5) The Commanding General of the U.S. Army Corps of Engineers, or the Commanding General's designee.

(6) The Director of the United States Geological Survey, or the Director's designee.

(7) The Administrator of the National Aeronautics and Space Administration, or the Administrator's designee.

(8) One member shall be appointed by the Secretary of Defense, who shall be a representative of the Office of Naval Research or the Chief of Naval Operations.

(9) The Federal Coordinator for Meteorological Services and Supporting Research.

(10) The Director of the Office of Science and Technology Policy, or the Director's designee.

(11) The Director of the Office of Management and Budget, or the Director's designee.

(12) The Chair of the Executive Committee of the Federal Geographic Data Committee, or the Chair's designee.

(13) Such other members from Federal agencies as the chairpersons of the Task Force jointly consider appropriate.

(14) Members who are not employees of the Federal Government, selected jointly by the chairpersons of the Task Force in consultation with the National Academy of Sciences and the National Academy of Engineering, as follows:

(A) At least 3 members who are prominent in the fields of hurricane science, engineering, social science, or related fields.

(B) At least 1 member who represents a State government agency responsible for emergency management and response.

(C) At least 3 members who represent the views of local governments, tribal governments, and nongovernmental organizations.

(D) At least 2 members who represent private sector interests engaged in hurricane research, preparedness, response, or recovery.

(E) At least 1 member who represents a State floodplain or coastal zone manager.

(F) Such other members as may be appropriate.

(c) **CHAIRPERSONS.**—The concurrent chairpersons of the Task Force shall be the following:

(1) The Under Secretary, or the Under Secretary's designee under subsection (b)(1).

(2) The Director of the National Science Foundation, or the Director's designee under subsection (b)(2).

(3) The Director of the National Institute of Standards and Technology, or the Director's designee under subsection (b)(3).

(d) **INITIAL MEETING.**—Not later than 120 days after the date of the enactment of this Act, the Task Force shall hold its first meeting.

(e) **MEETINGS.**—The Task Force shall meet at the call of the chairpersons of the Task Force, but not less frequently than twice each year.

(f) **DUTIES.**—The duties of the Task Force are as follows:

(1) To provide assistance to the Under Secretary with the development of the 5-year implementation plan required by section 5(b).

(2) Not later than 270 days after the date of the enactment of this Act and in consideration of the expert findings referred to in section 2(3)—

(A) to develop and furnish to the Under Secretary findings and recommendations, as appropriate, for monitoring research progress and for a set of benchmarks, milestones, goals, and performance measures to track the transition and application of research results for reducing hurricane losses and related public benefits under the Initiative;

(B) to identify interim and long-term goals of the research program under section 7; and

(C) to prioritize the activities of the Initiative over a 10-year period.

(3) To improve communication and coordination among Federal agencies with respect to hurricane-related research, developments in hurricane forecasting and operations, and best practices for applying results of Initiative research to reduce loss of life and property damage resulting from hurricanes.

(4) To identify opportunities to leverage the activities and products of the Initiative with the National Windstorm Impact Reduction Program and other Federal and non-Federal hurricane research, coordination, and loss reduction programs.

(5) To recommend a model described in section 7(c)(1)(A) and monitor progress on development of such model.

(6) To make recommendations to the Under Secretary and the Director of the National Science Foundation on research priorities and content and structure of the program established under section 7(a)(1).

(7) To make recommendations on national hurricane research observation and data requirements.

(8) To assess opportunities to leverage the capabilities of the following stakeholders:

(A) Federal, State, and local governments.

(B) Tribal governments.

(C) Academic and research institutions.

(D) Entities from the private sector.

(E) Nongovernmental organizations.

(9) To evaluate the extent to which the stakeholders described in paragraph (8) have been engaged as partners and collaborators in the Initiative.

(10) To assist the Under Secretary in facilitating the development of the annual report required by section 5(f).

(11) To review such report and provide comments to the Under Secretary.

(12) To submit to the National Science and Technology Council and to Congress, together with documents submitted to Congress in support of the budget of the President for the 2012 fiscal year (as submitted pursuant to section 1105 of title 31, United States Code), a report containing a comprehensive review of the progress of the Initiative in meeting the needs of the United States to understand hurricanes, their impacts on natural and built environment, and methods to mitigate such impacts.

(g) **ADVISORY BODIES.**—

(1) **AUTHORITY TO ESTABLISH.**—The Task Force may establish such advisory bodies as the Task Force considers necessary to assist

the Task Force in its duties under subsection (f).

(2) **CRITERIA.**—An advisory body established under paragraph (1) shall represent a broad variety of private and public interests.

(h) **ADVISORS TO THE TASK FORCE.**—The Task Force may seek advice and input from any interested, knowledgeable, or affected party as the Task Force considers necessary to carry out the duties under subsection (f).

(i) **COMPENSATION.**—

(1) **IN GENERAL.**—All members of the Task Force who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) **TRAVEL EXPENSES.**—The members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Task Force.

(j) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chairpersons may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(k) **VOLUNTEER SERVICES.**—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(l) **EXEMPTION FROM FACA NOTICE REQUIREMENT FOR TASK FORCE ADVISORY BODIES.**—An advisory body established by the Task Force under subsection (g) shall not be subject to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 10(a)(2)).

(m) **TERMINATION OF TASK FORCE.**—The Task Force shall terminate on September 30, 2018.

**SEC. 7. NATIONAL HURRICANE RESEARCH.**

(a) **NATIONAL SCIENCE FOUNDATION COMPETITIVE GRANT RESEARCH PROGRAM.**—

(1) **IN GENERAL.**—The Director of the National Science Foundation, in coordination with the Under Secretary, shall establish a program to award grants to eligible entities to carry out—

(A) research described in subsection (c); or

(B) other research that is consistent with the research objectives established under section 5(c)(1).

(2) **SELECTION.**—The National Science Foundation shall select grant recipients under this section through its merit review process.

(b) **NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION RESEARCH PROGRAM.**—

(1) **IN GENERAL.**—The Under Secretary shall carry out a program of research described in subsection (c) or other research that is consistent with the research objectives established under section 5(c)(1).

(2) **RESEARCH ACTIVITIES.**—Research carried out under paragraph (1) may be carried out through—

(A) intramural research;

(B) awarding grants to eligible entities to carry out research;

(C) contracting with eligible entities to carry out research; or

(D) entering into cooperative agreements to carry out research.

(c) **RESEARCH.**—The research described in this subsection is research that is consistent with the purposes described in section 5(a)(2) and is described by one or more of the following:

(1) FUNDAMENTAL HURRICANE RESEARCH.—Fundamental hurricane research, which may consist of the following:

(A) COMMUNITY RESEARCH MODELS.—Research to support continued development and maintenance of community weather research and forecast models recommended by the Task Force under section 6(f)(5), including advanced methods of observing storm structure and assimilating observations into the models, in which the agency or institution hosting the models ensures broad access and use of the model by members of the Task Force and the civilian research community.

(B) PREDICTING HURRICANE INTENSITY AND STRUCTURE.—Research to improve understanding and prediction of—

(i) storm formation and tracking with extended time scale to weeks in advance;

(ii) rapid changes in storm size, motion, structure, and intensity;

(iii) the internal dynamics of storms;

(iv) the transition to extratropical characteristics as storms move poleward; and

(v) the interactions of storms with environmental conditions, including the atmosphere, ocean, and land surface.

(C) UNDERSTANDING AIR AND SEA INTERACTIONS.—Research regarding observations, theory, and modeling to improve understanding of air and sea interaction in hurricanes and other high wind speed environments.

(D) PREDICTING STORM SURGE, WAVES, RAINFALL, INLAND FLOODING, AND STRONG WINDS PRODUCED BY HURRICANES.—Research to understand, model, and predict rainfall, coastal and riverline flooding, high winds, and the potential occurrence of tornadoes, including probabilistic modeling, mapping, and visualization of risk.

(E) RELATIONSHIPS BETWEEN HURRICANES AND CLIMATE VARIABILITY AND CHANGE.—Research to improve the understanding of the complex relationships between hurricanes and climate on seasonal to decadal time scales, such as research to determine the most effective methods to use observational information and numerical-model simulations to examine short-term and long-term impacts of climate on changes in storm intensity, geographic distribution, and frequency.

(F) RELATIONSHIPS BETWEEN HURRICANES AND ECOSYSTEMS.—Research to improve the understanding of how hurricanes affect ecosystems, landscapes, and natural resources and to develop assessments for hurricane vulnerability and risk, including—

(i) how ecosystems have been influenced by past hurricanes and the ability and capacity of ecosystems to recover from the effects of hurricanes;

(ii) how ecosystem management practices can minimize disruptions to ecosystem functions and dependent economic uses as a result of hurricanes; and

(iii) the role of natural features, such as barrier islands, wetlands, and mangroves, in—

(I) acting as natural buffers to wind and flood forces; and

(II) improving coastal resiliency.

(2) TECHNOLOGY ASSESSMENT AND DEVELOPMENT.—Technology assessment and development, which may consist of the following:

(A) IMPROVED OBSERVATION OF HURRICANES AND TROPICAL STORMS.—Research to improve hurricane and tropical storm observations and to improve the understanding of the complex nature of storms and their interaction with the natural and built environment through development and application of new technologies, such as—

(i) mobile radars and advanced airborne observing technologies;

(ii) global positioning system technology;

(iii) unmanned vehicles;

(iv) satellite-based sensors;

(v) ground-based and aerial wireless sensors; and

(vi) other geospatial technologies and geospatial data, including bathymetry and elevation.

(B) COMPUTATIONAL CAPABILITY.—Research and development of robust computational capabilities and facilities required to conduct numerical and other types of modeling that support the scientific studies and research carried out under the Initiative as well as data acquisition and modeling during hurricane events, including research to improve understanding of the efficient utility of multiple models that—

(i) require sharing and interoperability of databases, computing environments, networks, visualization tools, and analytic systems that improve on such technologies that are available on the date of the enactment of this Act; and

(ii) are used for transitioning hurricane research assets into operational practice.

(C) TECHNOLOGIES FOR DISASTER RESPONSE AND RECOVERY.—Research to improve damage assessments after a hurricane and emergency communications during hurricane response and recovery, including improvements to—

(i) communications networks for government agencies and nongovernmental entities;

(ii) network interoperability;

(iii) cyber-security during hurricane or storm related emergencies; and

(iv) use of models, remote sensing, and statistically based ground sampling to support effective and rapid damage assessment to scale disaster response and recovery needs.

(3) RESEARCH INTEGRATION, TRANSITION, AND APPLICATION.—Research on integration, transition, and application of research results, which may consist of the following:

(A) TRANSITION OF RESEARCH TO OPERATIONS.—Research to develop mechanisms to accelerate the application of improved models, observations, communication, and risk assessment systems, and related research products to forecasting and other operational settings, including use of 1 or more developmental test beds.

(B) ASSESSING VULNERABLE INFRASTRUCTURE.—Developing a national engineering assessment and clearinghouse of coastal infrastructure by leveraging and building upon existing Federal activities, resources, and research, including infrastructure related to levees, sea walls, and similar coastal flood-protection structures, drainage systems, bridges, water and sewage utilities, power, and communications, to determine the level of vulnerability of such infrastructure to damage from hurricanes.

(C) INTERACTION OF HURRICANES WITH ENGINEERED STRUCTURES.—Research to improve understanding of the impacts of hurricanes and tropical storms on buildings, structures, and housing combined with modeling that is essential for guiding the creation of improved building designs and construction codes in locations particularly vulnerable to hurricanes.

(D) EVACUATION PLANNING.—Research to improve the manner in which hurricane-related information is provided to, and utilized by, the public and government officials, including research to assist officials of State, tribal, regional, or local governments in—

(i) determining the circumstances in which evacuations are required; and

(ii) carrying out such evacuations.

(E) DECISION SUPPORT.—Research to—

(i) assess the social, behavioral, and economic factors that influence decision making by the public, government officials, non-governmental entities, the private sector,

and other impacted populations before, during, and in the aftermath of hurricanes;

(ii) improve the translation of natural science and engineering research carried out under the Initiative into informed decision making that enables communities, economies, and the man-made and natural environments to become resilient to hurricane impacts, including development of effective risk and vulnerability assessment and risk communication tools; and

(iii) develop methods of assessing disaster recovery costs, both government and non-government, and of comparing the relative benefits of disaster mitigation methods with disaster recovery costs.

#### SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(A) IN GENERAL.—There are authorized to be appropriated for fiscal years 2010 through 2015 amounts as follows:

(1) To the Under Secretary, \$18,750,000 to carry out sections 5, 6, and 7(b), of which not less than \$13,750,000 shall be used to carry such section 7(b).

(2) To the Director of the National Science Foundation, \$56,250,000 to carry out sections 5 and 7(a).

#### (B) INTERAGENCY TRANSFER OF FUNDS.—

(1) TRANSFERS BY UNDER SECRETARY FOR OCEANS AND ATMOSPHERE.—Of amounts appropriated pursuant to the authorization of appropriations under subsection (a)(1), the Under Secretary may transfer to the heads of other Federal agencies such amounts as the Under Secretary considers appropriate to carry out sections 5, 6, and 7(b).

(2) TRANSFERS BY DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION.—Of amounts appropriated pursuant to the authorization of appropriations under subsection (a)(2), the Director of the National Science Foundation may transfer to the heads of other Federal agencies such amounts as the Director considers appropriate to carry out sections 5 and 7(a).

#### SEC. 9. INDEPENDENT REVIEW.

##### (A) AGREEMENT.—

(1) IN GENERAL.—The Under Secretary shall seek to enter into an agreement with the National Research Council of the National Academies for the National Research Council to perform the services covered by this section.

(2) TIMING.—The Under Secretary shall seek to enter into the agreement described in paragraph (1) not later than 180 days after the date of the enactment of this Act.

(b) INDEPENDENT REVIEW OF NATIONAL HURRICANE RESEARCH INITIATIVE.—Under an agreement between the Under Secretary and the National Research Council under this section, the National Research Council shall carry out an independent review of the Initiative. In carrying out the review, the National Research Council shall review the following:

(1) Whether the Initiative has well-defined, prioritized, and appropriate research objectives.

(2) Whether the Initiative is properly coordinated among relevant Federal agencies and stakeholders.

(3) Whether the Initiative has allocated appropriate resources to each of the research objectives.

(4) Whether suitable mechanisms exist for transitioning the research results from the Initiative into operational technologies and procedures and activities in a timely manner.

(c) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Under Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report on the results of the review carried out under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Under Secretary, \$750,000 to carry out this section.

S. 1486

*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 “Policyholder Disaster Protection Act of 2009”.

**SEC. 2. FINDINGS.**

The Congress makes the following findings:

(1) Rising costs resulting from natural disasters are placing an increasing strain on the ability of property and casualty insurance companies to assure payment of homeowners’ claims and other insurance claims arising from major natural disasters now and in the future.

(2) Present tax laws do not provide adequate incentives to assure that natural disaster insurance is provided or, where such insurance is provided, that funds are available for payment of insurance claims in the event of future catastrophic losses from major natural disasters, as present law requires an insurer wishing to accumulate surplus assets for this purpose to do so entirely from its after-tax retained earnings.

(3) Revising the tax laws applicable to the property and casualty insurance industry to permit carefully controlled accumulation of pretax dollars in separate reserve funds devoted solely to the payment of claims arising from future major natural disasters will provide incentives for property and casualty insurers to make natural disaster insurance available, will give greater protection to the Nation’s homeowners, small businesses, and other insurance consumers, and will help assure the future financial health of the Nation’s insurance system as a whole.

(4) Implementing these changes will reduce the possibility that a significant portion of the private insurance system would fail in the wake of a major natural disaster and that governmental entities would be required to step in to provide relief at taxpayer expense.

**SEC. 3. CREATION OF POLICYHOLDER DISASTER PROTECTION FUNDS; CONTRIBUTIONS TO AND DISTRIBUTIONS FROM FUNDS; OTHER RULES.**

(a) CONTRIBUTIONS TO POLICYHOLDER DISASTER PROTECTION FUNDS.—Subsection (c) of section 832 of the Internal Revenue Code of 1986 (relating to the taxable income of insurance companies other than life insurance companies) is amended by striking “and” at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting “; and”, and by adding at the end the following new paragraph:

“(14) the qualified contributions to a policyholder disaster protection fund during the taxable year.”.

(b) DISTRIBUTIONS FROM POLICYHOLDER DISASTER PROTECTION FUNDS.—Paragraph (1) of section 832(b) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting “, and”, and by adding at the end the following new subparagraph:

“(F) the amount of any distributions from a policyholder disaster protection fund during the taxable year, except that a distribution made to return to the qualified insurance company any contribution which is not a qualified contribution (as defined in subsection (h)) for a taxable year shall not be included in gross income if such distribution is made prior to the filing of the tax return for such taxable year.”.

(c) DEFINITIONS AND OTHER RULES RELATING TO POLICYHOLDER DISASTER PROTECTION FUNDS.—Section 832 of the Internal Revenue Code of 1986 (relating to insurance company

taxable income) is amended by adding at the end the following new subsection:

“(h) DEFINITIONS AND OTHER RULES RELATING TO POLICYHOLDER DISASTER PROTECTION FUNDS.—For purposes of this section—

(1) POLICYHOLDER DISASTER PROTECTION FUND.—The term ‘policyholder disaster protection fund’ (hereafter in this subsection referred to as the ‘fund’) means any custodial account, trust, or any other arrangement or account—

“(A) which is established to hold assets that are set aside solely for the payment of qualified losses, and

“(B) under the terms of which—

“(i) the assets in the fund are required to be invested in a manner consistent with the investment requirements applicable to the qualified insurance company under the laws of its jurisdiction of domicile,

“(ii) the net income for the taxable year derived from the assets in the fund is required to be distributed no less frequently than annually,

“(iii) an excess balance drawdown amount is required to be distributed to the qualified insurance company no later than the close of the taxable year following the taxable year for which such amount is determined,

“(iv) a catastrophe drawdown amount may be distributed to the qualified insurance company if distributed prior to the close of the taxable year following the year for which such amount is determined,

“(v) a State required drawdown amount may be distributed, and

“(vi) no distributions from the fund are required or permitted other than the distributions described in clauses (ii) through (v) and the return to the qualified insurance company of contributions that are not qualified contributions.

(2) QUALIFIED INSURANCE COMPANY.—The term ‘qualified insurance company’ means any insurance company subject to tax under section 831(a).

(3) QUALIFIED CONTRIBUTION.—The term ‘qualified contribution’ means a contribution to a fund for a taxable year to the extent that the amount of such contribution, when added to the previous contributions to the fund for such taxable year, does not exceed the excess of—

“(A) the fund cap for the taxable year, over

“(B) the fund balance determined as of the close of the preceding taxable year.

(4) EXCESS BALANCE DRAWDOWN AMOUNTS.—The term ‘excess balance drawdown amount’ means the excess (if any) of—

“(A) the fund balance as of the close of the taxable year, over

“(B) the fund cap for the following taxable year.

(5) CATASTROPHE DRAWDOWN AMOUNT.—

(A) IN GENERAL.—The term ‘catastrophe drawdown amount’ means an amount that does not exceed the lesser of the amount determined under subparagraph (B) or (C).

(B) NET LOSSES FROM QUALIFYING EVENTS.—The amount determined under this subparagraph shall be equal to the qualified losses for the taxable year determined without regard to clause (ii) of paragraph (8)(A).

(C) GROSS LOSSES IN EXCESS OF THRESHOLD.—The amount determined under this subparagraph shall be equal to the excess (if any) of—

“(i) the qualified losses for the taxable year, over

“(ii) the lesser of—

“(I) the fund cap for the taxable year (determined without regard to paragraph (9)(E)), or

“(II) 30 percent of the qualified insurance company’s surplus as regards policyholders as shown on the company’s annual statement for the calendar year preceding the taxable year.

(D) SPECIAL DRAWDOWN AMOUNT FOLLOWING A RECENT CATASTROPHE LOSS YEAR.—If for any taxable year included in the reference period the qualified losses exceed the amount determined under subparagraph (C)(ii), the ‘catastrophe drawdown amount’ shall be an amount that does not exceed the lesser of the amount determined under subparagraph (B) or the amount determined under this subparagraph. The amount determined under this subparagraph shall be an amount equal to the excess (if any) of—

“(i) the qualified losses for the taxable year, over

“(ii) the lesser of—

“(I) ½ of the fund cap for the taxable year (determined without regard to paragraph (9)(E)), or

“(II) 10 percent of the qualified insurance company’s surplus as regards policyholders as shown on the company’s annual statement for the calendar year preceding the taxable year.

(E) REFERENCE PERIOD.—For purposes of subparagraph (D), the reference period shall be determined under the following table:

<b>For a taxable year beginning</b>	<b>The reference period shall be—</b>
in—	

2012 and later ... The 3 preceding taxable years.

2011 ..... The 2 preceding taxable years.

2010 ..... The preceding taxable year.

2008 or before ... No reference period applies.

(6) STATE REQUIRED DRAWDOWN AMOUNT.—The term ‘State required drawdown amount’ means any amount that the department of insurance for the qualified insurance company’s jurisdiction of domicile requires to be distributed from the fund, to the extent such amount is not otherwise described in paragraph (4) or (5).

(7) FUND BALANCE.—The term ‘fund balance’ means—

“(A) the sum of all qualified contributions to the fund,

“(B) less any net investment loss of the fund for any taxable year or years, and

“(C) less the sum of all distributions under clauses (iii) through (v) of paragraph (1)(B).

(8) QUALIFIED LOSSES.—

(A) IN GENERAL.—The term ‘qualified losses’ means, with respect to a taxable year—

“(i) the amount of losses and loss adjustment expenses incurred in the qualified lines of business specified in paragraph (9), net of reinsurance, as reported in the qualified insurance company’s annual statement for the taxable year, that are attributable to one or more qualifying events (regardless of when such qualifying events occurred),

“(ii) the amount by which such losses and loss adjustment expenses attributable to such qualifying events have been reduced for reinsurance received and recoverable, plus

“(iii) any nonrecoverable assessments, surcharges, or other liabilities that are borne by the qualified insurance company and are attributable to such qualifying events.

(B) QUALIFYING EVENT.—For purposes of subparagraph (A), the term ‘qualifying event’ means any event that satisfies clauses (i) and (ii).

(i) EVENT.—An event satisfies this clause if the event is 1 or more of the following:

“(I) Windstorm (hurricane, cyclone, or tornado).

“(II) Earthquake (including any fire following).

“(III) Winter catastrophe (snow, ice, or freezing).

“(IV) Fire.

“(V) Tsunami.

“(VI) Flood.

“(VII) Volcanic eruption.

“(VIII) Hail.

“(ii) CATASTROPHE DESIGNATION.—An event satisfies this clause if the event—

“(I) is designated a catastrophe by Property Claim Services or its successor organization,

“(II) is declared by the President to be an emergency or disaster, or

“(III) is declared to be an emergency or disaster in a similar declaration by the chief executive official of a State, possession, or territory of the United States, or the District of Columbia.

“(9) FUND CAP.—

“(A) IN GENERAL.—The term ‘fund cap’ for a taxable year is the sum of the separate lines of business caps for each of the qualified lines of business specified in the table contained in subparagraph (C) (as modified under subparagraphs (D) and (E)).

“(B) SEPARATE LINES OF BUSINESS CAP.—For purposes of subparagraph (A), the separate lines of business cap, with respect to a qualified line of business specified in the table

contained in subparagraph (C), is the product of—

“(i) net written premiums reported in the annual statement for the calendar year preceding the taxable year in such line of business, multiplied by

“(ii) the fund cap multiplier applicable to such qualified line of business.

“(C) QUALIFIED LINES OF BUSINESS AND THEIR RESPECTIVE FUND CAP MULTIPLIERS.—For purposes of this paragraph, the qualified lines of business and fund cap multipliers specified in this subparagraph are those specified in the following table:

Line of Business on Annual Statement Blank:	Fund Cap Multiplier:
Fire .....	0.25
Allied .....	1.25
Farmowners Multiple Peril .....	0.25
Homeowners Multiple Peril .....	0.75
Commercial Multi Peril (non-liable portion) .....	0.50
Earthquake .....	13.00
Inland Marine .....	0.25

“Taxable year beginning in:

“(D) SUBSEQUENT MODIFICATIONS OF THE ANNUAL STATEMENT BLANK.—If, with respect to any taxable year beginning after the effective date of this subsection, the annual statement blank required to be filed is amended to replace, combine, or otherwise modify any of the qualified lines of business specified in subparagraph (C), then for such taxable year subparagraph (C) shall be applied in a manner such that the fund cap shall be the same amount as if such reporting modification had not been made.

“(E) 20-YEAR PHASE-IN.—Notwithstanding subparagraph (C), the fund cap for a taxable year shall be the amount determined under subparagraph (C), as adjusted pursuant to subparagraph (D) (if applicable), multiplied by the phase-in percentage indicated in the following table:

Phase-in percentage to be applied to fund cap computed under subparagraphs (A) and (B)	Year
5 percent	2009 .....
10 percent	2010 .....
15 percent	2011 .....
20 percent	2012 .....
25 percent	2013 .....
30 percent	2014 .....
35 percent	2015 .....
40 percent	2016 .....
45 percent	2017 .....
50 percent	2018 .....
55 percent	2019 .....
60 percent	2020 .....
65 percent	2021 .....
70 percent	2022 .....
75 percent	2023 .....
80 percent	2024 .....
85 percent	2025 .....
90 percent	2026 .....
95 percent	2027 .....
100 percent.	2028 and later .....

“(10) TREATMENT OF INVESTMENT INCOME AND GAIN OR LOSS.—

“(A) CONTRIBUTIONS IN KIND.—A transfer of property other than money to a fund shall be treated as a sale or exchange of such property for an amount equal to its fair market value as of the date of transfer, and appropriate adjustment shall be made to the basis of such property. Section 267 shall apply to any loss realized upon such a transfer.

“(B) DISTRIBUTIONS IN KIND.—A transfer of property other than money by a fund to the qualified insurance company shall not be treated as a sale or exchange or other disposition of such property. The basis of such property immediately after such transfer shall be the greater of the basis of such property immediately before such transfer or the fair market value of such property on the date of such transfer.

“(C) INCOME WITH RESPECT TO FUND ASSETS.—Items of income of the type described in paragraphs (1)(B), (1)(C), and (2) of subsection (b) that are derived from the assets held in a fund, as well as losses from the sale or other disposition of such assets, shall be considered items of income, gain, or loss of the qualified insurance company. Notwithstanding paragraph (1)(F) of subsection (b), distributions of net income to the qualified insurance company pursuant to paragraph (1)(B)(ii) of this subsection shall not cause such income to be taken into account a second time.

“(11) NET INCOME; NET INVESTMENT LOSS.—For purposes of paragraph (1)(B)(ii), the net income derived from the assets in the fund for the taxable year shall be the items of income and gain for the taxable year, less the items of loss for the taxable year, derived from such assets, as described in paragraph (10)(C). For purposes of paragraph (7), there is a net investment loss for the taxable year to the extent that the items of loss described in the preceding sentence exceed the items of income and gain described in the preceding sentence.

“(12) ANNUAL STATEMENT.—For purposes of this subsection, the term ‘annual statement’ shall have the meaning set forth in section 846(f)(3).

“(13) EXCLUSION OF PREMIUMS AND LOSSES ON CERTAIN PUERTO RICAN RISKS.—Notwithstanding any other provision of this subsection, premiums and losses with respect to risks covered by a catastrophe reserve established under the laws or regulations of the Commonwealth of Puerto Rico shall not be taken into account under this subsection in determining the amount of the fund cap or the amount of qualified losses.

“(14) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations—

“(A) which govern the application of this subsection to a qualified insurance company

having a taxable year other than the calendar year or a taxable year less than 12 months,

“(B) which govern a fund maintained by a qualified insurance company that ceases to be subject to this part, and

“(C) which govern the application of paragraph (9)(D).”

“(D) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

S. 1487

*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 “Commission on Catastrophic Disaster Risk and Insurance Act of 2009”.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) Hurricanes Katrina, Rita, and Wilma, which struck the United States in 2005, caused over \$200 billion in total economic losses, including insured and uninsured losses.

(2) Although private sector insurance is currently available to spread some catastrophe-related losses throughout the Nation and internationally, most experts believe there will be significant insurance and reinsurance shortages, resulting in dramatic rate increases for consumers and businesses, and the unavailability of catastrophe insurance.

(3) The Federal Government has provided and will continue to provide billions of dollars and resources to pay for losses from catastrophes, including hurricanes, volcanic eruptions, tsunamis, tornados, and other disasters, at huge costs to American taxpayers.

(4) The Federal Government has a critical interest in ensuring appropriate and fiscally responsible risk management of catastrophes. Mortgages require reliable property insurance, and the unavailability of reliable property insurance would make most real estate transactions impossible. In addition, the public health, safety, and welfare demand that structures damaged or destroyed in a catastrophe be reconstructed as soon as possible. Therefore, the inability of the private sector insurance and reinsurance markets to maintain sufficient capacity to enable Americans to obtain property insurance coverage in the private sector endangers the national economy and the public health, safety, and welfare.

(5) Multiple proposals have been introduced in the United States Congress over the past decade to address catastrophic risk insurance, including the creation of a national catastrophic reinsurance fund and the revision of the Federal tax code to allow insurers to use tax-deferred catastrophe funds, yet Congress has failed to act on any of these proposals.

(6) To the extent the United States faces high risks from catastrophe exposure, essential technical information on financial structures and innovations in the catastrophe insurance market is needed.

(7) The most efficient and effective approach to assessing the catastrophe insurance problem in the public policy context is to establish a bipartisan commission of experts to study the management of catastrophic disaster risk, and to require such commission to timely report its recommendations to Congress so that Congress can quickly craft a solution to protect the American people.

#### SEC. 3. ESTABLISHMENT.

There is established a bipartisan Commission on Catastrophic Disaster Risk and Insurance (in this Act referred to as the "Commission").

#### SEC. 4. MEMBERSHIP.

(a) MEMBERS.—The Commission shall be composed of the following:

(1) The Administrator of the Federal Emergency Management Agency or a designee of the Administrator.

(2) The Administrator of the National Oceanic and Atmospheric Administration or a designee of the Administrator.

(3) 12 additional members or their designees of whom one shall be—

(A) a representative of a consumer group;

(B) a representative of a primary insurance company;

(C) a representative of a reinsurance company;

(D) an independent insurance agent with experience in writing property and casualty insurance policies;

(E) a State insurance regulator;

(F) a State emergency operations official;

(G) a scientist;

(H) a faculty member of an accredited university with experience in risk management;

(I) a member of nationally recognized think tank with experience in risk management;

(J) a homebuilder with experience in structural engineering;

(K) a mortgage lender; and

(L) a nationally recognized expert in anti-trust law.

#### (B) MANNER OF APPOINTMENT.—

(1) IN GENERAL.—Any member of the Commission described under subsection (a)(3)

shall be appointed only upon unanimous agreement of—

- (A) the majority leader of the Senate;
- (B) the minority leader of the Senate;
- (C) the Speaker of the House of Representatives; and
- (D) the minority leader of the House of Representatives.

(2) CONSULTATION.—In making any appointment under paragraph (1), each individual described in paragraph (1) shall consult with the President.

(c) ELIGIBILITY LIMITATION.—Except as provided in subsection (a), no member or officer of the Congress, or other member or officer of the Executive Branch of the United States Government or any State government may be appointed to be a member of the Commission.

#### (d) PERIOD OF APPOINTMENT.—

(1) IN GENERAL.—Each member of the Commission shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

#### (e) QUORUM.—

(1) MAJORITY.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) APPROVAL ACTIONS.—All recommendations and reports of the Commission required by this Act shall be approved only by a majority vote of a quorum of the Commission.

(f) CHAIRPERSON.—The majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives shall jointly select 1 member appointed pursuant to subsection (a) to serve as the Chairperson of the Commission.

(g) MEETINGS.—The Council shall meet at the call of its Chairperson or a majority of its members at any time.

#### SEC. 5. DUTIES OF THE COMMISSION.

The Commission shall—

##### (1) assess—

(A) the condition of the property and casualty insurance and reinsurance markets in the aftermath of Hurricanes Katrina, Rita, and Wilma in 2005, and the 4 major hurricanes that struck the United States in 2004; and

(B) the ongoing exposure of the United States to earthquakes, volcanic eruptions, tsunamis, and floods; and

(2) recommend and report, as required under section 6, any necessary legislative and regulatory changes that will—

(A) improve the domestic and international financial health and competitiveness of such markets; and

##### (B) assure consumers of the—

(i) availability of adequate insurance coverage when an insured event occurs; and

(ii) best possible range of insurance products at competitive prices.

#### SEC. 6. REPORT.

(a) IN GENERAL.—Not later than 90 days after the appointment of Commission members under section 4, the Commission shall submit to the President and the Congress a final report containing a detailed statement of its findings, together with any recommendations for legislation or administrative action that the Commission considers appropriate, in accordance with the requirements of section 5.

(b) CONSIDERATIONS.—In developing any recommendations under subsection (a), the Commission shall consider—

(1) the catastrophic insurance and reinsurance market structures and the relevant commercial practices in such insurance in-

dustries in providing insurance protection to different sectors of the American population;

(2) the constraints and opportunities in implementing a catastrophic insurance system that can resolve key obstacles currently impeding broader implementation of catastrophe risk management and financing with insurance;

(3) methods to improve risk underwriting practices, including—

(A) analysis of modalities of risk transfer for potential financial losses;

(B) assessment of private securitization of insurance risks;

(C) private-public partnerships to increase insurance capacity in constrained markets;

(D) the financial feasibility and sustainability of a national catastrophe pool or regional catastrophe pools designed to provide adequate insurance coverage and increased underwriting capacity to insurers and reinsurers;

(4) approaches for implementing a public insurance scheme for low-income communities, in order to promote risk reduction and explicit insurance coverage in such communities;

(5) methods to strengthen insurance regulatory requirements and supervision of such requirements, including solvency for catastrophic risk reserves;

(6) methods to promote public insurance policies linked to programs for loss reduction in the uninsured sectors of the American population;

(7) methods to strengthen the risk assessment and enforcement of structural mitigation and vulnerability reduction measures, such as zoning and building code compliance;

(8) the appropriate role for the Federal Government in stabilizing the property and casualty insurance and reinsurance markets, with an analysis—

(A) of options such as—

(i) a reinsurance mechanism;

(ii) the modernization of Federal taxation policies; and

(iii) an "insurance of last resort" mechanism; and

(B) how to fund such options; and

(9) the merits of 3 principle legislative proposals introduced in the 109th Congress, namely:

(A) The creation of a Federal catastrophe fund to act as a backup to State catastrophe funds (S. 3117);

(B) Tax-deferred catastrophe accounts for insurers (S. 3115); and

(C) Tax-free catastrophe accounts for policyholders (S. 3116).

#### SEC. 7. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission or, at the direction of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out this Act—

(1) hold such public hearings in such cities and countries, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths or affirmations as the Commission or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Commission or such subcommittee or member considers advisable.

#### (b) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Subpoenas issued under subsection (a) shall bear the signature of the Chairperson of the Commission and shall be served by any person or class of persons designated by the Chairperson for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Information obtained under a subpoena issued under subsection (a) which is deemed confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information—

(i) shall be exempt from disclosure under section 552 of title 5, United States Code; and

(ii) shall not be published or disclosed unless the Commission determines that the withholding of such information is contrary to the interest of the United States.

(B) EXCEPTION.—The requirements of subparagraph (A) shall not apply to the publication or disclosure of any data aggregated in a manner that ensures protection of the identity of the person furnishing such data.

(c) AUTHORITY OF MEMBERS OR AGENTS OF THE COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this Act.

(d) OBTAINING OFFICIAL DATA.—

(1) AUTHORITY.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States any information necessary to enable the Commission to carry out the purposes of this Act.

(2) PROCEDURE.—Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish the information requested to the Commission.

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, any administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(g) GIFTS.—

(1) IN GENERAL.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(2) REGULATIONS.—The Commission shall adopt internal regulations governing the receipt of gifts or donations of services or property similar to those described in part 2601 of title 5, Code of Federal Regulations.

**SEC. 8. COMMISSION PERSONNEL MATTERS.**

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsist-

ence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) SUBCOMMITTEES.—The Commission may establish subcommittees and appoint persons to such subcommittees as the Commission considers appropriate.

(d) STAFF.—Subject to such policies as the Commission may prescribe, the Chairperson of the Commission may appoint and fix the pay of such additional personnel as the Chairperson considers appropriate to carry out the duties of the Commission.

(e) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—Subcommittee members and staff of the Commission may be—

(1) appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of that title.

(f) EXPERTS AND CONSULTANTS.—In carrying out its objectives, the Commission may procure temporary and intermittent services of consultants and experts under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of that title.

(g) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairperson of the Commission, any Federal Government employee may be detailed to the Commission to assist in carrying out the duties of the Commission—

(1) on a reimbursable basis; and

(2) such detail shall be without interruption or loss of civil service status or privilege.

**SEC. 9. TERMINATION.**

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 6.

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated \$5,000,000 to carry out the purposes of this Act.

By Mr. BURRIS:

S. 1488. A bill to extend temporarily the 18-month period of continuation coverage under group health plans required under COBRA continuation coverage provisions so as to provide for a total period of continuation coverage of up to 24 months; to the Committee on Health, Education, Labor, and Pensions.

Mr. BURRIS. Mr. President, today I rise to address a growing problem resulting from America's high levels of unemployment and economic downturn. Congress is working to design health reform that will provide access to quality, affordable insurance coverage for every American, but as unemployment numbers continue to rise, help may not come in time to avoid coverage denials on the individual insurance market and unbearable economic strain for those job seekers whose COBRA coverage has expired.

The Comprehensive Omnibus Budget Reconciliation Act of 1985 codified 18

months of additional group rate coverage under employer sponsored plans following a triggering event such as job loss. This law has been instrumental in providing continuity of health coverage for families. The measure requires companies with over 20 employees to provide access to 18 months of continued coverage at the employee's expense, except in cases of firing for gross employee misconduct. Beneficiaries cover the additional administrative expense, and may be charged up to 103 percent of their original premiums.

The American Reinvestment and Recovery Act provided help with health insurance for families who lost their jobs after September 1, 2008 and through December of 2009. For those in this category, the federal government provides nine months of subsidized premiums, with beneficiaries covering 35 percent of premium costs. However, the downturn started well before September of 2008.

For those that lost their job before September, and are still looking for work, the situation is dire. Many are quickly facing the end of their 18 month eligibility period for COBRA. They hear about health reform but have no idea when it may come. Insurance exchanges to guaranteeing eligibility and reasonable premiums on the individual market could take years to set up. In the mean time, those who could have afforded coverage under COBRA may instead have to resort to emergency room care and bankruptcy.

The Emergency COBRA Expansion Act of 2009 will give job seekers the opportunity to continue their COBRA coverage for up to an additional 6 months. The bill applies to all of those utilizing COBRA benefits as of the date of bill passage, and would not extend anyone's coverage beyond 12 months from the date of bill enactment. A year from now, our country will be on the road to economic recovery, but in the meantime we need to help struggling families to stay insured and healthy.

By Ms. SNOWE:

S. 1489. A bill to amend the Small Business Act to create parity among small business contracting programs, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, as Ranking Member of the Senate Committee on Small Business and Entrepreneurship, I rise to introduce this bill in order to correct disparities among the Small Business Administration's small business contracting programs. Building on my efforts to bring true parity to the program, this bill will create a more equitable and flexible method for federal agencies to fairly allocate federal procurement dollars to small business contractors across the nation. Earlier this year, I filed an amendment, cosponsored by my colleague from Maine, Senator COLLINS, to create parity as part of S. 454, the Weapon

Systems Acquisition Reform Act of 2009. Unfortunately, that amendment was not accepted.

For years it has been unclear to the acquisition community what, if any, the true order of preference is for determining which small business contracting program is at the top of the agency's priority list. The SBA's regulations state that there is parity among the programs, and this had been the general practice in effect until two Government Accountability Office decisions were released on September 19, 2008 and May 4, 2009.

The decisions stated that the Historically Underutilized Business Zone, HUBZone, program had preference over all other small business contracting programs. While the interpretation benefits HUBZone businesses, it comes at the expense of other vital small business contracting programs. This targeted bill provides equity for the SBA's small business contracting programs.

The bill provides Federal agencies with the necessary flexibility to satisfy their government-wide statutory small business contracting goals. This bill makes clear to purchasing agencies that contracting officers may award contracts to HUBZone, Service Disabled Veterans, 8(a), or women-owned firms with equal deference to each program. It would provide these agencies with the ability to achieve their goaling requirements equally through an award to a HUBZone firm, a service-disabled veteran-owned small business, and a small business participating in the 8(a) business development program. Of course this list will also include women-owned small businesses once the women's procurement program is fully implemented by the SBA.

In addition, this bill brings the SBA's contracting programs closer to true parity by giving HUBZones a subcontracting goal. HUBZones are the only small business contracting program without a subcontracting goal. In addition, the bill authorizes mentor protégé programs modeled after those used in the 8(a) program for HUBZones, service-disabled veteran and women-owned firms.

The essence of true parity is where each program has an equal chance of competing and being selected for an award. During these difficult economic times, it is imperative that small business contractors possess an equal opportunity to compete for Federal contracts on the same playing field with each other.

I urge my colleagues on both sides of the aisle to support this bill.

#### SUBMITTED RESOLUTIONS

**SENATE RESOLUTION 218—MAKING MINORITY PARTY APPOINTMENTS FOR THE 111TH CONGRESS**

Mr. McCONNELL submitted the following resolution; which was considered and agreed to:

#### S. RES. 218

*Resolved*, That the following be the minority membership on the following committees for the remainder of the 111th Congress, or until their successors are appointed:

**COMMITTEE ON AGRICULTURE NUTRITION AND FORESTRY**: Mr. Chambliss, Mr. Lugar, Mr. Cochran, Mr. McConnell, Mr. Roberts, Mr. Johanns, Mr. Grassley, Mr. Thune, and Mr. Cornyn.

**COMMITTEE ON FOREIGN RELATIONS**: Mr. Lugar, Mr. Corker, Mr. Isakson, Mr. Risch, Mr. DeMint, Mr. Barrasso, Mr. Wicker, and Mr. Inhofe.

**COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS**: Ms. Collins, Mr. Coburn, Mr. McCain, Mr. Voinovich, Mr. Ensign, Mr. Graham, and Mr. Bennett.

**COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP**: Ms. Snowe, Mr. Bond, Mr. Vitter, Mr. Thune, Mr. Enzi, Mr. Isakson, Mr. Wicker, and Mr. Risch.

**SPECIAL COMMITTEE ON AGING**: Mr. Martinez, Mr. Shelby, Ms. Collins, Mr. Corker, Mr. Hatch, Mr. Brownback, Mr. Graham, and Mr. Chambliss.

#### SENATE RESOLUTION 219—HONORING THE HOCKEY TEAM OF EAST SIDE HIGH SCHOOL IN NEWARK, NEW JERSEY

Mr. MENENDEZ submitted the following resolution; which was referred to the Committee on the Judiciary:

#### S. RES. 219

Whereas adolescents who lack a structured, after-school environment are at high risk of delinquency, poor academic performance, and illicit behavior;

Whereas the lack of a structured after-school environment is especially prevalent in inner-city communities such as Newark, New Jersey;

Whereas athletic organizations provide a safe after-school environment in which adolescents learn about commitment, dedication, and teamwork;

Whereas East Side High School in Newark, New Jersey, formed a hockey team;

Whereas members of the East Side High School hockey team have shown resilience, dedication, and continuous improvement;

Whereas the New Jersey Devils offered assistance to the East Side High School hockey team, including access to the New Jersey Devils practice hockey rink; and

Whereas the nonprofit organization, Hockey in Newark, has joined with the New Jersey Devils and the National Hockey League to collect and distribute donated hockey equipment and uniforms valued at \$85,000 to low-income children in Newark, New Jersey; Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the dedication of the players and coaches of the hockey team of East Side High School in Newark, New Jersey;

(2) wishes the East Side High School hockey team many successful seasons ahead; and

(3) commends the New Jersey Devils for engaging the local community and providing low-income, at-risk children the opportunity to play hockey.

#### SENATE CONCURRENT RESOLUTION 33—EXPRESSING THE SENSE OF CONGRESS THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED TO HONOR THE CREW OF THE USS MASON DE-529 WHO FOUGHT AND SERVED DURING WORLD WAR II.

Mr. BURRIS submitted the following concurrent resolution; which was re-

ferred to the Committee on Homeland Security and Governmental Affairs:

#### S. CON. RES. 33

Whereas the USS Mason DE-529 was the only United States Navy destroyer with a predominantly black enlisted crew during World War II;

Whereas the integration of the crew of the USS Mason DE-529 was the role model for racial integration on Navy vessels and served as a beacon for desegregation in the Navy;

Whereas the integration of the crew signified the first time that black citizens of the United States were trained to serve in ranks other than cooks and stewards;

Whereas the USS Mason DE-529 served as a convoy escort in the Atlantic and Mediterranean Theatres during World War II;

Whereas, in September 1944, the crew of the USS Mason DE-529 helped save Convoy NY119, ushering the convoy to safety despite a deadly storm in the Atlantic Ocean;

Whereas, in 1998, the Secretary of the Navy John H. Dalton made an official decision to name an Arleigh Burke Class Destroyer the USS Mason DDG-87 in order to honor the USS Mason DE-529;

Whereas, in 1994, President Clinton awarded the USS Mason DE-529 a long-overdue commendation, presenting the award to 67 of the surviving crewmembers; and

Whereas commemorative postage stamps have been issued to honor important vessels, aircrafts, and battles in the history of the United States: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of Congress that—

(1) the United States Postal Service should issue a postage stamp honoring the crew of the USS Mason DE-529 who fought and served during World War II; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued.

#### AMENDMENTS SUBMITTED AND PROPOSED

**SA 1647**. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

**SA 1648**. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

**SA 1649**. Ms. COLLINS (for herself and Mr. COBURN) submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

**SA 1650**. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

**SA 1651**. Mr. FEINGOLD (for himself, Ms. MURKOWSKI, Mrs. LINCOLN, and Mr. BURRIS) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

**SA 1652**. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

**SA 1653**. Mr. CORNYN (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.