United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155 WASHINGTON, THURSDAY, APRIL 30, 2009 No. 65

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN GILLIBRAND, a Senator from the State of New York.

PRAYER

The PRESIDING OFFICER. Today's opening prayer will be offered by Chaplain MAJ Jonathan Etterbeek, from the 32nd Medical Brigade at Fort Sam Houston, TX.

The guest Chaplain offered the following prayer:

Will you pray with me, please.

Almighty God, I ask Your blessing upon today's session of the Senate. Grant Your guidance and wisdom upon our legislators and their staffs in their decisions and deliberations. Let this legislative body exemplify the value-based, principle-centered leadership that is reflective of the diversity and inclusivity of the American people. Let integrity and personal courage be the hallmarks of their selfless service to the Nation.

Lord, I ask a special blessing upon our military children with autism during this month of the Military Child and National Autism Awareness Month. Let us honor the sacrifices of our military parents by providing the best possible care for our military children, especially those who suffer from autism. Spiritually edify us to live justly, to love mercy, and walk humbly with You, O God.

In Your Holy name I pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN GILLIBRAND led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 30, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

SCHEDULE

Mr. REID. Madam President, following the remarks of the two leaders, the Senate will be in a period of morning business for up to an hour. Senators will be allowed to speak during that time for up to 10 minutes each. The majority will control the first 30 minutes, the Republicans will control the next 30 minutes.

Following morning business, the Senate will begin consideration of the mortgage foreclosure and enhancement mortgage credit legislation. Senator DURBIN will be recognized to offer an amendment with reference to mortgage modification—the bankruptcy provision. There will be up to 4 hours of debate on that issue equally divided. There will be an affirmative 60-vote threshold on that amendment. Senators, therefore, should expect the first vote between 2:30 and 3:30 this afternoon.

Upon disposition of that amendment, Senator DODD will be recognized to offer a Dodd-Shelby substitute amendment. The Senate will then proceed to executive session to consider the nomination of Thomas Strickland to be Assistant Secretary for Fish and Wildlife. There will be up to 3 hours for debate with respect to the Strickland nomination, 1 hour for the majority, 2 hours for the Republicans, with Senator BUNNING controlling 30 minutes of Republican time. Confirmation of the Strickland nomination is also subject to an affirmative 60-vote threshold.

RECOGNITION OF THE REPUBLICAN LEADER

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

OBAMA GUANTANAMO POLICY

Mr. McCONNELL. Madam President, today the Secretary of Defense and the Secretary of State will appear before the Appropriations Committee to support the administration's request for funding to execute our combat operations in Iraq and Afghanistan. They will be explaining the need to expend more than $80 billion in our efforts to defeat the Taliban, al-Qaida, and to preserve our security gains in Iraq.

The administration's request also includes $80 million to close the secure detention facility at Guantanamo Bay. Yet rather than appear before the Senate to explain why these funds are necessary, and what the administration

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Printed on recycled paper.

plans to do with the terrorists housed at Guantanamo, Attorney General Holder chose to deliver a speech in Berlin yesterday in which he reiterated the administration's intent to close it.

During that speech, Attorney General Holder acknowledged once again that Guantanamo is ''run in an efficient, professional manner.'' He said detainees there are treated humanely. Yet Guantanamo must be closed, he said, because it represents, as he put it, a time and an approach that we want to put behind us. And keeping this so-called symbol open ''makes America less safe'' and makes our friends, including Europeans, ''less secure.''

It is clear from these remarks that the administration is putting symbolism ahead of safety. This becomes even more apparent from Attorney General Holder's admission that closing Guantanamo will be ''one of the most daunting challenges'' he will face. He clearly realizes what most Americans realize: closing Guantanamo is not a good option if no safe alternatives exist.

In an effort to circumvent this dilemma, Attorney General Holder says the U.S. will not only transfer detainees but also release some of them and try others in Federal court. Nowhere did the Attorney General mention the use of the military commissions process that Congress passed on a bipartisan basis at the direction of the Supreme Court. The Attorney General's comments present a whole range of new problems and potential dangers that some of my colleagues will detail throughout the day.

Attorney General Holder also failed to address recent news reports that the administration was considering releasing Guantanamo detainees into American communities. On April 2, Senator Sessions sent the Attorney General a letter asking him what legal authority the administration has to release detainees who have participated in terrorist-related activities into the United States. The Attorney General still has not responded to Senator Sessions. But it is a question the American people want answered right away.

This weekend I will be attending the Kentucky Derby with well over 100,000 Kentuckians and other Americans, and if I asked every one of them if they thought sending terrorists to our neighborhoods was a good plan, I would get more than 100,000 resounding ''noes.''

Since the administration has not given any indication where it plans to put the 240 terrorists currently housed at Guantanamo, the Attorney General was asked in Berlin if any of the detainees could be put up in hotels. According to the Associated Press report on the meeting, the Attorney General joked that ''hotels might be a possibility, it depends on where the hotel is.''

The question of where the terrorists at Guantanamo will be sent is no joking matter—and the administration needs to tell the American people how it will keep the terrorists at Guantanamo out of our neighborhoods and off of the battlefield. Its one thing not to have a plan. It is another to joke about not having one.

HONORING OUR ARMED FORCES

SERGEANT DAVID K. COOPER

Mr. MCCONNELL. Madam President, the Nation and the Commonwealth of Kentucky are poorer today for the loss of SGT David K. Cooper of Williamsburg. On August 27, 2008, Sergeant Cooper was tragically killed when his dismounted patrol came under small-arms fire in Iraq. He was 25 years old.

Sergeant Cooper was in his third tour in Iraq. For his bravery in uniform, he received several medals, awards and decorations, including the Army Good Conduct Medal, the Purple Heart and the Bronze Star Medal.

Sergeant Cooper was laid to rest at Bowlin Cemetery in Jellico, TN, about 10 miles south of Williamsburg. Ed Bailey, a friend who watched him grow up, said of Sergeant Cooper, ''I don't know where our country keeps getting these heroes.''

Ronald and Judy Cooper, David's parents, could tell you. They fondly remember David, who was born in Whitley County and raised in Williamsburg, as a fun-loving kid who enjoyed football, track and playing in the school band.

''David seemed to go straight from being a little boy at 11 to being a man at 12, full facial hair and all,'' says his mother, Judy. ''David played junior-high football. The coach had David and one other player like him. Coach had to carry a copy of these two players' birth certificates to prove they were not over age for junior-high football.''

David went on to play defensive end and tight end on his highschool football team, the Williamsburg Yellow Jackets. One friend who played with him, Steven Moses, still remembers David as ''hard as heck to block.''

David had many friends, who called him by the nickname ''Coop.'' As for David's friends, they all seemed to have the same first name—''My Buddy.''

In a eulogy she wrote with David's sisters, Veronica and Vanessa, and graciously shared with me, Judy recalls what David would call his friends: ''My Buddy Matt, My Buddy Chapman, My Buddy Black.''

Once when David went out with his friends to cut down their own Christmas tree, he demonstrated that he barely knew his own strength. The group borrowed a parent's truck, went out and cut down a big beautiful cedar.

''David was always a big, strong man, even in high school,'' says Judy. ''As they were loading the tree, one of the branches got stuck on the tailgate. David and one of his friends got up into the truck, gave a mighty heave, and pulled the tree up into the bed of the truck and straight through the back window.''

David graduated from Williamsburg High School in 2001 and attended Eastern Kentucky University. In May 2004, he enlisted in the Army.

Roddy Harrison, the mayor of Williamsburg and David's former teacher and high school football coach, remembers seeing David soon after he enlisted and telling him how proud he was of him. ''He was a smart kid,'' Mayor Harrison recalls. ''A good student, very likable. He had a great sense of humor. . . . We are going to miss him.''

David attended basic training at Fort Sill, OK, and advanced individual training at Fort Sill and Redstone Arsenal in Alabama. By 2005, he was assigned to Golf Forward Support Company, 4th Battalion, 42nd Field Artillery, 1st Brigade Combat Team, 4th Infantry Division, based out of Fort Hood, TX. He was soon deployed to Iraq and served as a radar repair mechanic.

David's commanding officer in Iraq, CPT Christopher M. Guillory, wrote to Judy about her son. ''I usually called him Coop; [he] called me 'sir' or 'Captain G,' '' he wrote. ''Whether it was at Chapman's house while they were working on trucks, the drag strip, or at the monster truck shows, he was always respectful to me while we had a great time. David was a great young man, who had shown a great deal of maturity in the time I knew him.''

In Iraq, David served as a command team driver and company armorer. He was selected to serve on his command sergeant major's personal security detail for his tactical knowledge and record of performance.

When home on leave, David would tell his childhood friend Matt Mountjoy about the excitement of serving in the Army. He knew the dangers but was unafraid to face them. ''He really was a brave person,'' Matt says. ''I never, never heard him say he was ever scared.''

His mother Judy remembers that after David's death, a group of his friends came to visit her and share stories about her son. The stories mostly began, ''You remember that time when me and you and Coop . . . '' Judy says. ''They were all funny, most of them dangerous. . . . Were they funny at the time? No. Where do you think I got all of these gray hairs and wrinkles? But time does give us perspective.''

David's many friends and family members are in our thoughts as we remember him today. We are thinking of his wife, Amanda Fuston Cooper; his parents, Ronald Cooper and Judy Parrot Cooper; his sisters, Veronica Cooper and Vanessa Cooper, and Vanessa's finance Dave Seeger; his grandparents, Wanda and E.L. Cooper; his aunts, Jenny Begluitti, Janice Rutherford, and Joyce Dippel, and Joyce's husband Marty; his uncles, Steve Cooper and John Parrot, and John's wife Sonya; and many other beloved friends and family members.

All of those who knew him will remember a man of many fine qualities, including honesty. His mother Judy

says no one ever had to guess where they stood with David. ''David and I had a very close relationship,'' she says. ''He always said, 'Mom, I know there isn't any sense in me trying to lie to you. I know you're just going to find out the truth anyway.' ''

What is the truth now is that our Nation must never forget SGT David K. Cooper's service, nor can we ever forget the loss and pain caused to his family by his enormous sacrifice. I hope they will remember that this Senate is proud to honor SGT David K. Cooper for his bravery, his patriotism, and his love of country.

Madam President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MENENDEZ. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for up to 1 hour, with Senators permitted to speak for up to 10 minutes, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half.

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

CASTRO BROTHERS

Mr. MENENDEZ. Madam President, two weeks ago, the democratically elected leaders of the Western Hemisphere met for the Summit of the Americas. The Castro regime in Cuba was not invited, because it has violated the democratic charter of the Organization of American States for the last 5 decades.

At the same time as that meeting in Trinidad and Tobago, Raul Castro gave a speech in Venezuela. He said he would be willing to negotiate with the United States and put everything on the table. Many considered this ''news.''

Well, let me tell you, those comments aren't news to anyone who has followed the rhetoric of the regime over the decades. The Castros have made promise after promise and none of their promises have resulted in substantial change on the island, none of their promises have resulted in the release of the labor leaders, journalists or clergymen jailed for no crime other than speaking their minds, the end of the network of government spies on every block, or the granting of basic human rights that we in the United States take for granted. None of their promises have resulted in economic freedom for the millions of Cubans who try to get by on less than a dollar a day.

And so it was hardly news that not long after Raul Castro spoke, his older brother Fidel made comments clarifying that nothing would change, and blaming all conditions in Cuba on the United States.

He said President Obama acted with ''autosuficiencia'' y ''superficialidad'', he called him conceited and superficial.

I am surprised that Secretary Clinton, in her remarks, would jump so fast to consider that good news.

While Raul Castro spoke at a meeting in Venezuela, there was another gathering going on in Cuba. It was a gathering of state security agents and secret police, outside the home of Jorge Luis García Pérez, known as ''Antúnez.''

With tremendous courage, Antúnez began a hunger strike to protest the oppressive Castro regime. In response, agents descended on the house last March 17. According to Amnesty International, they have orders to use force against and arrest anyone to prevent them from entering the house, including anyone who could provide medical treatment.

Antúnez and three other Cubans have vowed to continue their protest until the torture of political prisoner Mario Alberto Perez Aguilera, held at the Santa Clara Provincial Prison, ceases immediately.

They will continue their protest until he is taken out of a tiny solitary confinement cell, until he is no longer beaten and forced to starve, until the regime allows Antúnez' sister Caridad Garcia Perez to rebuild her home destroyed by the hurricanes last year, which they have not allowed, as further punishment to these activists.

From his house in Placetas, Cuba, Antúnez wrote me a letter on April 13.

Here's an excerpt, in Spanish:

> Compatriotas a nombre de nuestro pueblo cubano persistan en sus nobles y sinceros esfuerzos, sepan que para los cubanos la libertad, la dignidad y el respeto a los derechos humanos tienen mucho más permanencia e importancia que las ventajas económicas que puedan traer los viajes de turismo y las llegadas de insumos que financiarín más que al pueblo a la cruel tiranía que nos oprime.

He said:

> Those who continue their noble and sincere efforts on behalf of the Cuban people, please know, that for Cubans, liberty, dignity and respect for human rights are much more permanent and important than the economic advantages that might come with visiting tourists and the arrival of products, which will benefit the cruel tyranny that oppresses us more than the Cuban people.

That is the kind of courage that can break a dictatorship. That is the kind of courage we should support. And that is the kind of person whose advice we should heed, the human rights activist, the Cuban who sacrifices day and night in a peaceful struggle for freedom, these are the voices we should listen to when we are making our policy toward the Castro regime.

Some like to cling to a romantic notion of the Castros, but we cannot lose sight of these brutal facts. There is no indication that political prisoners are being released, free speech is being allowed or Cubans are being granted basic liberties that we take for granted.

For the Organization of American States to readmit a regime that engages in this type of systematic suppression of human rights, it would have to rip up its Inter-American Democratic Charter as a farce. It would have to ignore Article 78 of the declaration, reaffirming, ''the legitimacy of electoral processes and full respect for human rights and fundamental freedoms.'' And it would be sending a clear signal to other countries moving in the wrong direction, away from democracy, that it is perfectly OK to do so.

In respect to the very complicated choices we have on Cuba policy, President Obama has proven himself a man of action. I support his allowing Cuban-Americans more opportunities to travel to Cuba, because I think families should have the chance to be reunited.

On the other hand, and although I support finding ways to improve the financial situation of the Cuban people, I think allowing unlimited remittances was not the right move, when the Castro regime still takes for itself up to 30 percent of all the money sent.

The administration also announced changes regarding telecommunications policy. Let me be clear: in spite of the fact that the regime has rejected such gestures in the past, I hope that it will now allow U.S. telecommunications companies to increase the flow of information to and from the island. That said, we need to be sure to prevent a repeat of what happened in China, where U.S. telecommunications firms helped the Chinese government monitor Internet users and control content. U.S. companies cannot and should not censor Internet searches and block Web sites at the request of the regime.

But mainly what we have learned from these good-faith actions on the part of the United States is that they have not resulted in any change of behavior from the regime in Cuba.

We have traded concessions and gotten only rhetoric in return. We have extended our hand, while the Cuban regime maintains its iron-handed clenched fist.

We cannot allow ourselves to start down a slippery slope of relaxing restrictions, that only winds up allowing the Castro regime to strengthen the iron fist by which it rules.

The press is reporting that the State Department is looking to hold talks on migration and counternarcotics with the Castro regime.

These are serious issues. But without seeing any progress whatsoever on the part of the regime, it is hard to see why we should be looking for more opportunities to make additional concessions. It is hard to see why we should believe whatever promises the regime might make. And it is hard to see why we should cooperate on migration or counternarcotics with a Cuban navy whose main mission is patrolling for and sinking ships carrying its own fleeing citizens.

If we open up discussions now, we are essentially giving the regime a pass on progress and taking the focus off of where President Obama rightly put it, freedom on the island, freedom for political prisoners, freedom from seizures of a huge percentage of remittances sent to the Cuban people.

So, this is exactly the wrong time to start these conversations and starting them would be in direct contradiction to the White House's own statements, as recently as April 17, that put the burden where it should be, on the Castro regime.

After 50 years of brutality, we need actions, not words, on the part of the Castro regime. Mere words won't erase the lack of dignity that Antúnez is protesting with a hunger strike. Words won't stop people like Oscar Elías Biscet, a renowned doctor, from being thrown into prison for refusing to give women a drug that caused abortions.

And words won't finally allow Oswaldo Payá to see the free elections he's worked for and marched for and gone to jail for.

Last week I heard one of my distinguished colleagues speak about human rights abuses in China. I think the Senator was absolutely right to highlight those abuses. And I think we should be no less concerned with prison camps in China than prison camps in Cuba, no less concerned with Tiananmen Square than with the Primavera Negra crackdown, no less appalled at a child laborer in Beijing than in Havana.

And by now we should be convinced that economic interaction in the face of an authoritarian government will not end Cuba's human rights abuses, just as it has not ended abuses in China.

Another of my distinguished colleagues has pointed out the peaceful revolutions that ended communism in Eastern Europe, including in his ancestors' homeland of Lithuania. I share the Senator's deep respect for those revolutions. And I think it is worth pointing out that when they took place, there was international support and recognition not primarily for the businesses who wanted to open those countries up for financial gain, but for the democracy activists within those countries who risked their lives to bring change.

There is simply no excuse for the Cuban regime's behavior. Forgiving it and forgetting it is not the answer.

If we want to change the way we conduct our policy, there are many things we can do to isolate and weaken the Castro regime, and hasten the day when the Cuban people can be free.

Let's have the U.S. offer more visitor and student visas for eligible Cubans to come to the U.S., to see and live our way of life. Having Americans travel to Cuba could never be as powerful as having Cuban youth see the greatness of our country, and its pluralistic, diverse, representative democracy. That taste of freedom would be infectious.

In return we simply seek a commitment from Cuba to accept their citizens' return, and to guarantee the issuance of exit permits for all qualified migrants.

Cuba is one of the few countries in the world that will not permit its citizens to travel even when they have a legitimate visa to do so. And, when they give them license to leave, they must pay to do so. I find it ironic that when people mention the U.S. embargo, they fail to mention the Castros' blockade on their own people, a blockade that keeps Cubans not only from leaving Cuba, but from moving freely within their own country.

If we want to facilitate the sales of food to Cuba, let us insist that they be sold in open markets, available to all Cubans, without it being part of Castro's food rationing plan, a plan meant to further control the Cuban people.

In exchange for cooperation with Cuba on narcotics trafficking, let them hand over the 200 fugitives the FBI knows are in Cuba, including JoAnne Chesimard, the convicted killer of New Jersey State Trooper Werner Foerster.

And in exchange for freeing commerce, let the Castros free the political prisoners they hold and allow them to speak freely, organize freely, elect their own leadership and freely practice their religion on Cuban soil. I hope we are not so blinded by the color of money that we forget how important it is for the Castros to close their dungeons and let the light of freedom shine down on everyone who calls the island home.

President Obama, who saw repression in Indonesia when he was a child, promised us this: He said:

> My policy toward Cuba will be guided by one word: Libertad. And the road to freedom for all Cubans must begin with justice for Cuba's political prisoners, the rights of free speech, a free press and freedom of assembly; and it must lead to elections that are free and fair.

For 50 years, the regime has been a social, economic and moral failure. It has succeeded merely at staying in power. Today, after the regime has offered few new words and fewer new actions, we can choose to change how we feel about the regime, or we can try to change the way it operates. That is our choice.

We can choose amnesia or we can choose justice. We can choose strong words or we can choose strong actions. We can choose giving in to the commercial interests of a few, or we can choose holding on to the moral interests that unite us all.

That is what I hope we will do. I yield the floor.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from New York.

SAFE BABY PRODUCTS ACT

Mrs. GILLIBRAND. Mr. President, I rise to speak about an issue that is very close to my heart. I am a mom. I have two young boys at home. Like all parents, I have faith and confidence that the products I use on my children—bath products, lotions, and soaps—are safe. But a new study was recently released by the Campaign for Safe Cosmetics revealing that widely used baby products, such as shampoos and baby lotions, contain probable carcinogens and other irritants, in particular formaldehyde and dioxane 1,4.

Like many other moms in New York, when I read this list of potentially dangerous products, I immediately began to worry about my children. I have two boys—Henry who is 11 months old and Theodore who is 5 years old. When I read this list of products, I noticed many of them are literally in my bathroom, and I have used them on my children since they were born. I was immediately very concerned. I began to think about what I could do to make a difference. The bottom line is, I, like all parents in America, need to know the facts about these products.

The Campaign for Safe Cosmetics commissioned an independent laboratory study to test 48 products for 1,4-dioxane, and 28 of those products were also tested for formaldehyde. The lab found that 61 percent contained both of those chemicals. Eighty-two percent contained formaldehyde from a level of 54 to 610 parts per million, and 67 percent contained 1,4-dioxane at levels up to 35 parts per million. The report says these chemicals are both probable carcinogens and irritants and have been known to cause cancer in animals.

The FDA, however, has not established a safe level for these chemicals in cosmetics, and these chemicals are currently not listed as ingredients because they are byproducts of the processing and manufacturing.

To me, this situation is unacceptable. Parents have the right to know whether the products they use on their children are safe. While a single product may not be cause for concern, the reality is, babies may be exposed to many products, several times a week. Children are particularly susceptible. Their skin is much finer, much thinner, so they can absorb contaminants more easily. They tend to breathe more quickly than adults, meaning their exposure to inhalation of some of these chemicals can be more considerable. We need to make sure the combination of these products is not causing harm to our youngest. Parents need to know if there are any risks in the products they trust. Parents have a right to know, and the government has a responsibility to make sure these products are safe.

That is why I rise to introduce legislation that will ensure these baby products are safe and that parents have the information they deserve. The Safe Baby Products Act will require the FDA to investigate the safety of baby products, publicly report the findings, and establish manufacturing practices that will reduce or eliminate any harmful chemicals. While there are no known cases of any disease directly linked to these products, what the legislation will do is require the FDA to test the safety and then report the findings so all of us can rest assured the products we use are safe. This commonsense legislation will ensure that we have all the facts we need about lotions and soap products because parents deserve to know.

This legislation will ensure transparency and accountability in this all-important consumer products market. The United States has a great history of taking steps to safeguard our kids. There is an important tradition of child and product safety laws.

As a mother of two young sons, I understand there is no duty greater for the Federal Government than to protect those who are most vulnerable among us. Other countries have taken leadership. The EU and Canada have banned dioxane in cosmetic products and have regulations for formaldehyde. Japan and Sweden have banned formaldehyde. The Israeli Health Ministry has banned the sales of U.S. baby products with carcinogenic chemicals.

All parents want the best for their kids. Our Government must not fail to protect our youngest and those who need our protection the most. This legislation will ensure that all of our parents have the information they need to keep our children safe.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent that whatever remaining time there is on the Democratic side be preserved in the event that another Democratic speaker would want to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. I will begin the Republican side at this time.

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

CLOSING GITMO

Mr. KYL. Madam President, President Obama has set an arbitrary deadline of January of 2010 to close our prison at Guantanamo Bay. There is currently no plan on how to accomplish that. Nevertheless, the President has requested $80 million in a supplemental appropriations bill to accomplish it. The question is, before we approve $80 million for this purpose, should we not know what the money is going to be used for? We are not in the business of appropriating large sums of money without having any idea of what is going to happen to the money. There are a lot of questions, but there are virtually no answers.

This facility is virtually brand new. It is a $200 million state-of-the-art prison. I have not heard that any of the money is going to actually go to shutter the facility. That would be very strange, indeed, since I gather even if all of the terrorists were removed from it, there would still be a reason to have that prison so that it could house others. So what is the money going to be used for?

We have not heard that any other country has agreed to take these prisoners. I think France was willing to take one. But presumably very little of this $80 million is going to be used to pay other countries to take these prisoners. So what is the money going to be used for?

Obviously, we will not release them into society. I heard one wag talking about the possibility that they would be given some money and turned loose and directed to make the best of their new life. That, obviously, makes no sense. I haven't heard that any of the $80 million would be used for that purpose.

What could it be used for? Well, I guess the only other option would be these people would be transferred to other prisons, either State prisons or maybe a Federal or a military prison. I will go into why that is not a good idea in a moment. But I suppose some of the money could be used to pay a State prison, for example, or to provide funding for a Federal prison, even though they are already funded, and I am not sure why they should need the additional money. But maybe they need additional security, for example. Perhaps some of the money could be used for that.

Why the number $80 million? Where did that number come from? Is there a plan, and we have not been told about it yet? There are a lot of questions that have to be answered before I am willing to vote to spend $80 million—or not spend it but to authorize $80 million to be spent but on what I do not know.

Let's understand that the reason these terrorists are at Guantanamo Bay—there are two reasons. No. 1, these are the worst of the worst. These are extraordinarily dangerous people who have all said that if given half a chance they will kill Americans or anybody else with whom they disagree. The second reason is, this facility keeps them in a place where they are safe but also we are safe from having the facility attacked in order to release them or to have the guards or the prison officials put into jeopardy as a result of the proximity to terrorists who could have access to them.

Guantanamo Bay is not a place where terrorists can easily get access. As a result, it is the perfect place to keep these kinds of dangerous criminals. We have already let a lot of the people at Guantanamo Bay free because we judged they were not a danger any longer. Unfortunately, we were wrong about many of them. There are well over 30—and I think the number may be over 50 by now—who we actually have information have returned to the battlefield. Some of them, we know, have been killed, some have been captured again, and we know some have gone right back to committing terrorist atrocities. These are people who we thought were rehabilitated or were not terrorists in the first place.

Now we are talking about roughly 240 or 245 who we know are very dangerous if they were ever to be released. What can be done with them? We cannot release them back to the battlefield. We cannot take them to some country such as Switzerland and turn them loose and say: Well, go wherever you want to. Other countries do not want to take them. You cannot turn them over to countries that we believe will obviously mistreat them or will turn them loose.

The only other option I can see is they would be put in some American prison. Think for a moment about that. One reason the prison guards at Guantanamo do not wear any identification is because they do not want these terrorists to know who they are. If they did, it would be possible to locate their families back in the States and to threaten them or actually do harm to them. This is not hard.

If they are transferred to the State prison in Arizona, let's say, what would have to be done there? Well, everybody knows who the warden of the State prison is in Arizona. Is that person and the family going to be jeopardized as a result of the fact that person is in charge of the Arizona prisons? Obviously, all the guards would have to have the same kind of training that our very capable people at Guantanamo have received. This would cost extra money. They could not be identified in any way to these individuals. The facilities would probably have to be hardened in order to ensure there could be no escape.

But as we found in both Afghanistan and Iraq, when terrorists are aware—and I believe this may have happened in Pakistan, though I could be corrected—when terrorists are aware their colleagues are being held in a facility, they make plans to try to spring them and they attack the facility and they try to hold hostages so they can trade for their colleagues who are in the prison.

Is that what we are going to expose Americans to in our communities? These are the kinds of things that have not been thought through and, obviously, have to be thought through. When somebody says to me: Will you vote for $80 million to close the prison at Guantanamo? I am going to say: Tell me what the $80 million is going to be used for. Tell me what the plan is and then I will think about it.

Let me mention—I said before these are the worst of the worst. They include 27 al-Qaida leaders, including the

mastermind of the September 11 attacks, key al-Qaida operatives, and Osama bin Laden lieutenants, as well as the orchestrator of the attack on the USS Cole, which killed 17 American sailors. In total, I believe there are 241 terrorists who remain under military guard at Guantanamo—those who have been identified as too dangerous to be released.

The Attorney General, about a month ago, said about these detainees—and I am quoting now—for ''people who can be released, there are a variety of options that we have and among them is the possibility that we would release them into this country.''

''Release them into this country''? I cannot imagine the American people being willing to do that.

Senator MCCONNELL asked a question of the Attorney General. He said: What is the legal basis for bringing these terrorist-trained detainees to the United States, given that Federal law specifically forbids the entry of anyone who endorses or espouses terrorism, has received terrorist training or belongs to a terrorist group?

It would be against U.S. law, as well as extraordinarily foolish, to release these people into this country, as the Attorney General intimated. As I said before, transferring them to facilities within our borders would create new terrorist targets.

The Senate has already spoken to this issue. In July of 2007, the Senate voted 94 to 3 that Guantanamo detainees should not be transferred stateside into facilities in American communities and neighborhoods.

So I repeat the question: Where will they go? European nations have said they will not take any of the terrorists because they cannot be integrated into their societies. Well, that is an understatement, to say the least.

Obviously, repatriating them to their native country has proven to be extraordinarily difficult too. That was obviously plan A. But these countries either, A, do not want them; B, could not take care of them; or, C, we believe would mistreat them.

We learned a lesson on repatriation in the case of Said Ali al-Shihri, who was returned home to Saudi Arabia after his release from Guantanamo. He promptly fled to Yemen. He is now a top leader of al-Qaida's Yemeni organization. Yemenis, interestingly, make up the largest population of Guantanamo prisoners. But Yemen has been the hardest country to engage on this issue. Even if it agreed to U.S. demands, it might not be capable of honoring them.

In fact, there are many areas of Yemen today that are very poorly governed. Its borders are porous. I do not think there is any confidence that if prisoners were released to Yemen, they would not immediately go back to the battlefield and we would be facing them again.

We should also keep in mind the conditions at Guantanamo are very good. Everyone who has visited there, I think, has agreed that the detainees are well treated, that they are exercised regularly, fed culturally and religiously appropriate meals, get medical and dental benefits—most far superior to any they had received before that in their life. They have access to mail, a library, are free to practice their religion. The International Committee of the Red Cross has unfettered access to monitor detainees.

It is not as if, in this particular facility, they are being mistreated. In fact, in this particular facility, they probably could be treated better than being returned stateside to some existing prison that would have to be modified in order to provide this kind of treatment for them.

I know of no better alternative than their current incarceration at Guantanamo. They are dangerous people who were picked up on the battlefield or in situations where we have very good reason to believe they are terrorists, that they would engage in terrorism or support terrorism if they were released.

We, obviously, are committed to moving forward because of the President's commitment. I believe the Congress will be willing to work with the President on this very difficult situation. But if the President is going to ask the Congress for money, then the President has to be able to share with us what his plan is, and we will try to help. What I do not think we will do is agree, as the Attorney General suggested, to release them into the United States.

I think it will be extraordinarily difficult to house them in some prison in one of our communities. We clearly have not been able to talk our allies into taking them. It is very difficult to return them to other countries because of the potential they would either be mistreated or immediately go back to the battlefield.

The President has committed to doing something, in my opinion, without thinking through carefully the consequences of the decision and the difficulty of implementing the decision.

To the extent he needs help from Congress, he needs to bring us into the discussion and share with us what he intends to do. Because we are not—as the vote before the Senate clearly indicated—we are not going to endorse a blank check on this and say: Fine, Mr. President, whatever you want to do, even though it could have an adverse impact on our communities or on our country.

That is why, despite the fact there are very good reasons to support other aspects of the supplemental appropriations bill that has been proffered to the Congress, this particular piece has to be modified. Either the President has to make clear what he intends to do with the $80 million, explain to the American people how he intends to move forward on this, or he should defer.

The supplemental appropriations bill, after all, is merely an emergency amount of money that may be needed in a place such as Iraq, Pakistan or Afghanistan, prior to the regular appropriations process taking place. If the President can suggest to us there is some emergency need for this money, then, obviously, we can consider that. But absent that, there is no reason to put it in the supplemental appropriations bill—a bill we need to pass because of the emergencies that do exist in places such as Pakistan, Afghanistan, and Iraq.

But short of explaining to us what he wants to do with the $80 million, I do not think this is something the Congress is going to be willing to include in the supplemental appropriations bill.

I would say this to the political operatives who sometimes get involved in these issues: Do not think that you can blackmail the Senate into supporting something such as this because of the urgency of getting the rest of the funds out into the field. Yes, those funds are important. But I think every one of our constituents would rightly be extraordinarily critical of any Senator who simply agreed carte blanche to appropriate $80 million if that meant these prisoners could be released into their communities or even be put behind bars in their communities. We have already spoken out against that, so that should not be part of the plan.

I think it is very important the President understands the Senate cannot approve a bill that has this kind of appropriation in it without bringing us into the process, getting our counsel as to how to deal with the problem, and then ask for our support for the funding to execute that particular plan.

Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MARTINEZ. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

WORLD PRESS FREEDOM DAY

Mr. MARTINEZ. Madam President, this Sunday, individuals around the world will mark World Press Freedom Day by recognizing the plight of journalists in nations where their rights are not accorded under the law.

Sadly, this includes many living in our own hemisphere.

In Cuba, the repressive regime has gone to great lengths to extinguish freedom of the press, freedom of expression, and independent thought.

Many have had their homes invaded, their families blacklisted, and their lives ruined for merely reporting the facts about the reality of Cuba under the Castro brothers' dictatorship.

Six years ago, in a massive crackdown on independent civil society activists, more than 100 people were detained, with 75 suffering prosecution and then later imprisonment. Of the 75 targeted by the regime for imprisonment, 35 were writers, journalists or independent librarians.

Because in Cuba the repression has been such that people are not allowed to even go to a library and read books that might be banned by the regime, individuals began to have home libraries where people could come and check out a book or read a book that might otherwise not be permitted by the Government. These people were imprisoned along with others who, in a fledgling kind of way, attempted to report conditions in Cuba.

Today, 22 of these courageous individuals remain imprisoned. In the intervening 6 years, they have been joined by others who dared to express independent thought.

Among those arrested during the 2003 ''Black Spring'' crackdown was Jose Luis Garcia Paneque, a doctor who became a journalist with the independent news agency Libertad—or ''freedom''—in Las Tunas Province. In 2003, Cuban state security searched his home and seized his personal possessions. He was prosecuted and convicted under Cuba's Orwellian penal code for acting ''against the independence or the territorial integrity of the state.''

He was sentenced to 24 years in prison—imagine, 24 years in prison—for a crime of being ''against the independence or the territorial integrity of the state.'' In fact, he was just a free journalist. He was sentenced to 24 years. He is limited to one family visit every 45 days. His health, understandably, has deteriorated and there is genuine concern for his well-being. For advocating on his behalf, the regime accused his wife of espionage and conspired to organize mobs outside their home. These government-inspired mobs threatened to burn the house while the family feared for their lives and were still inside the home. His wife and children were forced to flee the country, all because he dared to speak the truth.

Another independent journalist jailed by the regime is Normando Hernandez Gonzalez from Camaguey Province. Hernandez Gonzalez was arrested by the regime for reporting on the conditions of state-run services in Cuba and for criticizing the government's management of issues such as tourism, agriculture, fishing, and cultural affairs. He too was convicted for acting against ''the independence or the territorial integrity of the state.''

Following his arrest and 25-year sentence, Hernandez Gonzalez was placed in solitary confinement, allowed only 4 hours of sunlight per week, and limited communication with his family. Prison authorities encouraged inmates to harass Hernandez Gonzalez, according, to his wife Yarai Reyes Marin. It is no surprise his health has declined during his imprisonment.

As technology makes incremental advances in Cuba, the regime continues to clamp down on those using it to speak freely. Around the world, bloggers share information as fast as they receive it, but Cuban bloggers are lucky to have their messages penetrate the regime's repressive Internet restrictions.

One blogger who has found a way to report on the struggles of Cuban society is a woman named Yoani Sanchez. Sanchez is able to blog, but she does so at great risk of regime retribution at any moment. By e-mailing her observations on daily life in Cuba to friends outside the country, who then post them on line, she faces potential prosecution and imprisonment. Despite the risks, Sanchez eloquently expresses her support for freedom of expression. In one post she said:

> State control over the media remains intact, even though technological developments have helped people find parallel paths to keep themselves informed. Illegal satellite dishes, the controlled Internet, and books and manuals brought in by tourists have shaken the government's monopoly on providing news.

Like many other supposed ''freedoms'' in Cuba, the Cuban constitution actually provides for speech as long as it ''conforms to the aims of socialist society.''

According to the State Department's 2008 report on Cuba's human rights, anyone engaged in:

> disseminating ''enemy propaganda''

—is how they label it—

> which includes expressing opinions at odds with those of the government, is punishable by up to 14 years in prison.

Imagine 14 years in prison for disseminating ''enemy propaganda,'' as they determine it.

We here in the United States, with our traditions of freedom of expression and freedom of the press, often take our freedoms for granted. As we near the 3rd of May—a day in honor of free press around the world—I urge my colleagues to consider all those who are suffering for exercising their inalienable right to free speech.

I have a list here I ask unanimous consent to have printed in the RECORD. It lists all of those who are presently in prison in Cuba as a result of their desire to express themselves freely in violation of the dictates of the regime.

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

> Ricardo Severino Gonzalez Alfonso, Normando Hernandez Gonzalez, Hector Fernando Maseda Gutierrez, Pedro Arguelles Moran, Victor Rolando Arroyo Carmona, Mijail Bargaza Lugo, Juan Adolfo Fernandez Sainz, Miguel Galvan Gutierrez, Julia Cesar Galvez Rodriguez, Jose Luis Garcia Paneque, Lester Luis Gonzalez Penton, Ivan Hernandez Carrillo.
>
> Juan Carlos Herrera Acosta, Regis Iglesias Ramirez, Jose Ubaldo Izquierdo Hernandez, Jose Miguel Martinez Hernandez, Pablo Pacheco Avila, Fabio Prieto Llorente, Alfredo Manuel Pulido Lopez, Blas Giraldo Reyes Rodriguez, Omar Rodriguez Saludes, Omar Moises Ruiz Hernandez, Raymundo Perdigon Brito, Oscar Sanchez Madan, and Ramon Velazquez Toranso.

Mr. MARTINEZ. Madam President, today I will be introducing a resolution on World Freedom Day, if I may have another second to finish, and as I do, I hope many of my colleagues will join in this resolution. There may be some of us in this body who might differ on the best approach to bring freedom to Cuba. There ought to be no dissent on the issue that we all stand on the side of those who seek to freely express themselves in the midst of a very oppressive regime. So I hope we will have a lot of support for this resolution which I will be presenting later today.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Madam President, how much time is left, or would we be able to secure 20 minutes for Senator GRAHAM and myself?

The ACTING PRESIDENT pro tempore. The minority controls 7 minutes, and the majority controls 8 minutes.

Mrs. HUTCHISON. I ask unanimous consent to have 20 minutes for Senator GRAHAM and myself. If there is something else that is scheduled, I am happy to scale that back.

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

GUANTANAMO BAY

Mrs. HUTCHISON. Madam President, I wish to be notified at 10 minutes so I can assure that Senator GRAHAM of South Carolina can also speak.

We are speaking today on a very important subject. We are urging President Obama today to reconsider the decision to close Guantanamo Bay until he can reassure the American people that there is a viable alternative for detaining terrorist combatants.

Let there be no mistake. We are fighting a war on terror. This is a war that is just as important as any we have ever fought. Every war that we have fought for almost two centuries in this country has been a fight for freedom, and this is a fight for freedom too.

When President Obama announced by Executive order that he would close Guantanamo Bay, my initial reaction was, What are we going to do with these prisoners? What is the plan? We have not seen a plan, yet we have an order that says we are going to execute a closing of Guantanamo Bay with no plan for what we do with them.

I have been to Guantanamo Bay. I have visited that prison. I can tell my colleagues that in my observation and everything that we have learned since, the prisoners are being treated with respect. They are being well fed. They get health care coverage they have never had in their lives. Yet President Obama is saying we are going to close it even though we don't know what we are going to do with those prisoners.

What kind of precautions would be necessary to transfer these suspected terrorists? Well, we know that American prisons are simply not experienced in handling this unique and unprecedented brand of prisoner. In the United States, even petty and unsophisticated criminals find ways to plot behind prison walls.

For example, there was a recent news release about prisoners smuggling cell phones behind bars. The problem is so widespread that I have introduced, along with Congressman KEVIN BRADY on the House side, legislation to prevent prison inmates from using smuggled cell phones. In Texas, authorities say a death row inmate, Richard Tabler, used a smuggled cell phone to make threatening calls to a State Senator. Tabler's phone was found in the ceiling above a shower, and when they found it, they also found 11 more phones belonging to other death row inmates while they were looking for Mr. Tabler's. Do we want to take the risk that key al-Qaida terrorists, including Khalid Sheikh Mohammed, the confessed mastermind of the attacks on 9/11, won't be able to do what Richard Tabler and so many other prisoners have done—get a cell phone and plot attacks or escapes?

I think many of my colleagues understand the stakes here. On July 19 of 2007, the Senate voted 94 to 3 that detainees housed at Guantanamo Bay should not be released into American society, nor should they be transferred stateside into facilities in American communities and neighborhoods. So what is the alternative? There is another alternative. We could let them go. We could release them back to their home country or to some other foreign country, but let's look at the risks of that.

We now know that as many as 61 detainees previously released from Guantanamo Bay have returned to the battlefield, many of whom are now waging war against Americans. The prisoners already released were believed to be the least dangerous and yet many have returned to the battlefield. The ones remaining are considered the most dangerous and the most likely to kill again or plot to kill again.

Earlier this year, we learned that one former Guantanamo Bay detainee, Said Ali al-Shihri, is currently serving as the deputy leader of al-Qaida in Yemen. Those terrorists are directly responsible for the 2008 bombing of the U.S. Embassy in Yemen in which 10 people were murdered. Even though Al-Shihri was transferred from Guantanamo Bay to Saudi Arabia for a period of rehabilitation, he rejoined al-Qaida and assumed a leadership role in the planning and execution of terrorist acts. With this knowledge, can we be serious that we would abandon the security of Guantanamo Bay for an alternative of foreign transfers that could pose harm to ourselves and our allies, and especially to our young men and women serving right now in the military in the Middle East?

Without a viable option—and I do not consider it viable to let them go, because we have a history of what happened with that, nor do I think it is a viable option to transfer them to a prison in the United States until we know how we are going to secure that prison from any visitors, any capability of getting cell phones or, worse yet, weapons, so that we can assure there will not be plots from an American prison to kill Americans who are innocent anywhere in our country. Unless we have a viable option, I urge the President not to set a deadline for closing Guantanamo Bay until the American people are assured that there is a safe place for them to go. I believe the safest place for them is right where they are. Guantanamo Bay is secure. There have been no escapes from Guantanamo Bay, and they are getting treated very well. I have witnessed that, and many others of my colleagues who have taken the time to visit know they are being treated well. In many cases they are getting better care than they have had in their lifetimes.

I implore the President to change this order. Let's have a plan before we release these people out into the world to plot against Americans or bring them onto our soil before we know that we have a safe, secure environment, and where communities are willing, able, and encouraging that they be there in their midst.

Madam President, thank you. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. GRAHAM. Madam President, I appreciate what the Senator from Texas has been saying. This issue of what to do with the Guantanamo Bay detainees is a central issue for the Nation and the overall war on terror, because the President is looking for partners. He keeps saying that. I stand ready to be a partner. The best-run jail in the world where they are now is Guantanamo Bay. I have been there many times. The men and women who are working in that prison are doing an outstanding job. They follow the rules. It is a model military prison. It is tough duty. What they go through every day you probably don't realize, and we can't tell you at all, but it is tough duty. Anyone serving down there is doing the country a great service.

Having said that, I understand the need to change the image of the country. I have been one of the Republicans—a military lawyer for 25 years—who understands the way we conduct this war determines whether we will win it. The high ground in military operations is usually a physical location. When you are in a battle or a war, you try to get the high ground, because that is the best place to fight the enemy from. In this war, it is an ideological struggle, so the high ground is the moral high ground. It does matter what we do.

My goal for America is to be the best we can be. Our enemies—al-Qaida and other groups—are some of the most barbaric people in the history of the world. But here is what it comes down to. When we capture one of them, it becomes about us. They will cut people's heads off in the most brutal fashion, abuse and humiliate people. They don't give trials. They are not reasoned. They are barbarians. The fact that we choose a different way is not a weakness, it is a strength. Trust me, if we are going to lead the world to a better way, we need to show the world a better way. And there is a better way.

In World War II, we had thousands—350,000, I think—of German and Japanese prisoners housed in the United States, Nazis and Japanese prisoners committed to our destruction. We held them here under our value system, under the Geneva Conventions, in communities all over America. The Nazis and the Japanese were a tough crowd. When those prisoners were released, those who were released, they went back to their country with a view of America that helped us form the modern Japan and Germany.

Some of the people we are talking about at Guantanamo Bay are subject to war crimes trials. So I am urging the President to leave on the table the military commission option. We can reform it, but let's not criminalize this war. They are not accused of robbing a liquor store. These are not common criminals.

Under domestic criminal law, you cannot hold someone forever without a trial, nor should you. But under the law of armed conflict, if you catch a member of the enemy force, you can keep them off the battlefield as long as they present a danger. That has been military law forever.

I believe we would be better off if we look at the people who are members of al-Qaida at Guantanamo Bay as enemy combatants, part of an unorganized militia, military organization bent on our destruction, and they are a part of the enemy force, not some common criminal. We can keep them off the battlefield as long as necessary, but we have to do it within our value system.

I am urging the President that if someone at Guantanamo Bay is subject to a war crimes trial, let's don't go to Federal court, as we did with the blind sheik trial in the nineties, which was a disaster. Let's put them in a military tribunal and give them justice through the military legal system of which I have been a part for 25 years.

I can tell America one thing: The judges, the lawyers, and the jurors who wear the uniform of the United States are the best among us. These are the same people who administer justice to our own troops. It is a great place to conduct a trial because we can do things for national security in a military setting that we cannot do in Federal court. But I can assure you, justice will be rendered and people will be treated fairly. The courts-martial we have had, the commission trials we have had at Guantanamo Bay, we have seen sentences that make sense.

I have been a part of the military all my adult life. The jurors take their responsibilities extremely seriously. They hold the Government to their burden of proof. And the judges and the lawyers are outstanding.

There will be a group of people who will not be subject to war crimes trials because of the nature of the evidence, because of the unique relationship we may have between the evidence and an ally, that we are not going to subject that evidence to a beyond-a-reasonable-doubt standard, but we know with certainty, beyond a preponderance of the evidence, that this person is a member of a terrorist organization and is engaged in dangerous activities and likely to do that in the future.

What I am arguing to the administration, proposing to them, is those people we think are too dangerous to let go, let's create a national security court made up of Federal judges, somebody out of the military, who will look over the military shoulder and see if the evidence warrants an enemy combatant designation. That way, we will have an independent judiciary validating the fact that the person in custody is part of an enemy force, a danger to this country, and then have a periodic review of that person's status so they are not left in legal limbo. They will have a chance every year to make their case anew.

We have to realize that we have released more people from Guantanamo Bay than we have in detention and we have put people in Guantanamo Bay who were there by mistake. That is a fact. We threw the net too large. That happened.

Let me tell you what else has happened. Mr. President, 1 in 10 we let go has gone back to the fight. The No. 2 al-Qaida operative in Somalia was a detainee at Guantanamo Bay. We had a suicide bomber in Iraq blow himself up who was at Guantanamo Bay. We are going to make mistakes, but I want a process to limit those mistakes as much as possible.

I end with this thought. How we do this is important. We can close Guantanamo Bay and repair our image, but we have to have a legal system that has robust due process, that is transparent, that is independent, but recognizes we are at war. And that takes us to the Uyghurs.

There is a group of people in our custody whom we caught in Afghanistan who are part of a separatist movement in China. They are Muslims. They were training in Afghanistan to go back to China to take on the Chinese Government. They have been determined to no longer be enemy combatants in terms of a threat from the al-Qaida perspective, but what to do with the Uyghurs.

One thing I suggest to the President is that you cannot change immigration law. Our laws prevent a known terrorist from being released in our country. These people have engaged in terrorist activities. Their goal was to go back to China, not to come here. But there are press reports that one of the Uyghurs was allowed to look at TV and saw a woman not properly clothed and destroyed the television. We have to make sure that, one, we follow our own laws, and the fact they were going to go back to China does not mean they are safe to release here because they have been radicalized.

We have to make some hard decisions as a nation. I stand ready with the President and my Democratic colleagues to close Guantanamo Bay, but we do need a plan. We need a legal system of which we can be proud that will protect us.

The final comment is that the idea of releasing more photos showing detainee abuse is not in our national interest. We have men and women serving overseas. It will inflame the populations. It will be used by our enemies. I urge the administration to take that case all the way to the Supreme Court and protect our troops in the field.

I understand the President's dilemma and challenge. Harsh interrogation techniques have hurt this country more than they have helped. We can be a nation that abides by the Geneva Conventions, rule of law—we have been that way for a long time—and still defend ourselves. I agree with the President there. But I do believe we need a detainee policy that understands that the people we are talking about are not run-of-the-mill criminals. They are committed terrorists, and I don't say that lightly. The only way that label should stick under the system I am proposing is if an independent judiciary validates that decision. That is the best we can do.

This decision we are going to make as a nation is important. I tried to speak my mind and be balanced. There is a way for us to work together to get this right. I look forward to working with the administration to make some of the most difficult decisions in American history. I am confident we can do it if we work together.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 896, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 896) to prevent mortgage foreclosures and enhance mortgage credit availability.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Illinois, Mr. DURBIN, is recognized to offer an amendment on which there will be 4 hours of debate equally divided.

AMENDMENT NO. 1014

(Purpose: To prevent mortgage foreclosures and preserve home values)

Mr. DURBIN. Madam President, I have an amendment at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. DODD, Mr. REID, Mr. SCHUMER, Mr. WHITEHOUSE, and Mr. HARKIN, proposes an amendment numbered 1014.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. DURBIN. Madam President, America is facing a crisis, and this is what it looks like: Two buildings next to one another, one a well-kept home; next door, a foreclosed property, boarded up, vacant, vandalized. Sadly, this is a crisis which is affecting every community in America. I have seen it in the streets of Chicago. I have seen it in suburban towns. I have seen it in my downstate communities.

Madam President, 8.1 million homes are facing foreclosure in America today. That isn't my estimate, it is the estimate of Moody's. They are supposed to be good predictors of our economy. What does 8.1 million foreclosed homes represent? One out of every six home mortgages in America in foreclosure—one out of every six. It is a reality. It is a reality that affects the five out of six, our homes where we continue to make our mortgage payments and wonder what the problem is. Why is the value of my home going down? I am making the payments. It is going down because, sadly, somewhere on your block is another home in foreclosure, boarded up, an eyesore at best, a haven for criminal activity at worst—a reality that continues to grow.

Two years ago, before we even started in on this crisis as we know it, I proposed a change in the bankruptcy law, a change which I think could have forestalled this crisis we know today. Along the way, there has been resistance to this change. By whom? The banks that brought us this crisis in America have resisted this change to do something about mortgage foreclosure. That is a fact.

Last year, I offered this amendment to change the bankruptcy law, and the banking community said: Totally unnecessary; we don't need this kind of a change. This mortgage foreclosure is not going to be all that bad.

In fact, the estimates were of only 2 million homes in foreclosure last year from our friends in the banking community, the so-called experts. Here we are a year later. The estimate is now up to 8 million homes in foreclosure.

Who are these people facing foreclosure? Were they speculators and investors who were buying up properties and they thought that maybe they would double in value and they could quickly sell them? There may be a handful of those folks out there. By and large, they are families—families who are trying to keep it together,

under a roof, the most important asset they own, their home, trying to make payments when they discovered that the mortgage that was peddled to them by the same banking industry and mortgage banking industry turned out to be a fraud on its face.

We remember the heyday of all this activity. They would tell people: Come on in. Call this 800 number. We can let you finance and refinance. We have a deal for you.

People would show up at these mortgage brokers, and they would say: How much money do you make?

The guy would say: So many thousand dollars.

They would say: Oh, you are perfect. We have just the mortgage that will put you in this home, keep you in this home, or let you borrow money on this home.

The person would say: Do you need some proof? Do you need some documentation?

No, no, no, your word is good enough. No-doc mortgages.

In no time at all, they would be sitting at a closing. I have been to quite a few of them myself as a lawyer and buying a few properties in my own life. They give them a stack of papers—you know what I am talking about, a stack of papers—and they would turn the corners and say: Just keep signing it. Sign it.

What is it?

Oh, government forms, standard boilerplate. I could read it to you, but we want to get out of here in the next half hour. Keep signing, you keep signing.

At the end of the day, they say: In 60 days, first payment. You are going to love this place.

Out the door, and in comes another couple. That is what it was all about.

Then what happened 12 months later, 2 years later? That mystery mortgage kind of exploded in their face. All of a sudden, they were facing terms in that mortgage that were absolutely incomprehensible and unsustainable. They could not make the payments on it. The interest rates were going up too high. They called them subprime mortgages. That was the initial onslaught of this housing crisis in America. But then it grew into a lot of other mortgages too.

I told the story before—and it is worth repeating—of the flight attendant I met on a United flight flying from Washington to Chicago. After she did her chores on the plane and there was a quiet moment, she came and knelt down in the aisle next to me.

Senator, I have a problem. I am a single mom with three kids. I live out in the suburbs. I have worked for this airline for 20 years. I have been a good employee, always show up for work. I take it seriously. I have my little home out there, but I have a problem. My interest rate on my mortgage is too high. I need to take advantage of lower interest rates that are now available. If I can get down to a lower interest rate, a lower monthly payment, I can keep my home. But if I don't, I am going to lose it. I can't make ends meet. I can't keep it together. What am I supposed to do? They say I am underwater?

Do you know what that means? The value of your home is less than the mortgage principal today. It has happened to a lot of people.

Do you know what I told her: Sadly, I don't have an answer for you. If that bank will not bring you in, sit you down at a desk, and renegotiate the terms of that mortgage, you are about to go through the most painful, torturous path in your life. You are forced into default on your mortgage, you cannot make the payments, you become delinquent, receive the notice of foreclosure, and then it just goes from bad to worse.

Madam President, 8 million American stories, 8 million foreclosures. What we are offering today is the only proposal before the Senate which gives us a chance to do something about this crisis. It is the only thing that can change the dynamic which continues to eat at the heart of our economy which adds foreclosure upon foreclosure and completely paralyzes the housing industry in America. That is at the heart of this recession. That was the canary in the coal mine. That is what triggered where we are today, and it is still there and getting worse.

I sat down 2 years ago with the banking industry and said to them: We have to do something.

I can recall conversations with Henry Paulson from Wall Street, Secretary of the Treasury under President George W. Bush, where I said to Mr. Paulson: I know you wanted to save the banks, but how about saving the homeowners? What are we going to do about the mortgage foreclosure? Well, we will get to that later; or, it is not a problem. He kept putting me off and putting me off. He put me off, but he didn't put off the crisis.

Why is it in this country, in America, that we can find hundreds of billions of taxpayers' dollars from hard-working people all over the United States to come to the rescue of bad banking decisions, rotten investments, mortgages that were fraudulent on their face, but can't summon the political will to do something about 8 million families in America who are going to face foreclosure? That is where we are.

When I sat down with the banks, I said: I will work with you. Let us find a reasonable way so we can bring people to the table—such as that flight attendant—and find a way to work it through. Because at the end of the day, a foreclosure isn't good for anyone. A family loses their home, a neighborhood is ravaged by vacant property, the people next door lose the value of their home, the bank spends $50,000, at a minimum, for expenses in a foreclosure, and then 99 percent of these boarded-up buildings, these foreclosed homes, are the property of a bank. How much time is that bank spending on that property? How much worry do they have about the value of the neighbor's home? The answer is none. Banks aren't in the business of putting in windows and establishing security and cutting the grass and making the property look good. They move money around. But now they are becoming property owners of the most blighted properties in America.

Some banks are walking away from it, incidentally. The banks are walking away from the foreclosed property. I sat down with them and said: How can this be good for a bank? How can this be good for a family? How can this be good for the Nation? Let's sit down and work together. But I come today to the floor to tell you that despite months and months of heroic effort by my staff—Brad McConnell, who is here and who has worked tirelessly on this issue—and my own efforts to reach out to the banking community, only one bank is supporting this amendment to do something about foreclosure in America—one bank: Citigroup.

I can't tell you how many of these bankers have walked away. The American Bankers Association has been terrible—terrible. They will not even participate in a negotiation on dealing with this foreclosure crisis. The Community Bankers of America, a group I have respected over the years because they are closer to the people; they are the hometown banks—have walked away as well. They are not interested in this conversation, they say. The credit unions? Well, I will give them some credit. They did try. But in the end, they walked away as well. The big banks—JPMorgan Chase, you see them all over the United States—they were at the table until last week and then decided: No, we are going to walk away too. We are not interested in this conversation. Wells Fargo, Bank of America, and the list goes on and on.

If any of these names sound familiar, it is because they are surviving today due to taxpayer dollars. And you know what they say about these poor people who have lost their homes? It was a bad business judgment and people have to pay for their bad business judgments. Really? How many of these bankers paid for their bad business judgments, with their multimillion dollar bonuses, with the rescues we have provided from American taxpayers—hard-earned tax dollars sent their way? The fact is we have been kind to these bankers who have brought us into this crisis. Yet they are literally shunning and stiff-arming the people who are facing foreclosure. These banks that are too big to fail say that 8 million Americans facing foreclosure are too little to count in our political process, and they have walked out the door.

Well, I want to tell you, this amendment I am offering can save the homes of 1.7 million families. I wish we could save more, but the fact is we have this opportunity before us, and I think it is something we shouldn't ignore and we

should support. Some Members of the Senate voted against my amendment a year ago. I understand that. I heard them. They said: You have to sit with the banks and see if you can work something out. Well, we did, until they walked away.

What we offer today is significantly different than what we offered a year ago. We literally give to the banks control over whether a family in foreclosure can go into bankruptcy. We say that anybody facing foreclosure—who is delinquent for at least 60 days on a home that is valued at no more than $729,000, with a mortgage that was written no later than 2008—has to show up at the bank at least 45 days before they file bankruptcy and present all the economic information, all the financial documents the bank would need for a mortgage—proof of income, indication of net worth. If the bank at that point offers them a renegotiated mortgage—a mortgage which will basically allow them to stay in the home, that reduces the borrower's mortgage debt-to-income ratio to 31 percent, which is the standard the administration is talking about, or offers hope for home refinancing—another program—and the person facing foreclosure does not take that offer, then that same family in foreclosure cannot use the bankruptcy court to rewrite the mortgage. So in other words, the banks ultimately have the key to the courthouse. If they make the offer and it is turned down, that is the end of the story.

What happens if they do not make the offer? Under this law, we would change the Bankruptcy Code as follows: Under the current bankruptcy law, if you are deep in debt and facing foreclosure, and you own several pieces of real estate—your home, a vacation condo in Florida, a vacation condo in Aspen, CO, and you are facing foreclosure on all three properties because of economic problems—you can walk into that bankruptcy court and the judge can say we will renegotiate the terms of the mortgage on the Aspen, CO, property—we will reduce the principal of the mortgage to the fair market value, the interest rate will be the current interest rate, we will add a little to it, and so forth and so on. The bankruptcy judge has that power for the Florida property and for the Colorado property. But the law prohibits the bankruptcy court from rewriting the terms of the mortgage of a person's home. Why? Why does that make any sense? If the bankruptcy court can rewrite the mortgage on your vacation condos, your farm, or your ranch, why can't they do it for your home? That is what this bill does. It gives the bankruptcy court that power. And in creating that power, it says to the bankers: Get serious.

The voluntary plans we have had for refinancing mortgages in foreclosure across America have been an abject failure. We have to have an opportunity here for the bankruptcy court to step in and make a difference, and that is what we are trying to achieve with this.

I know my colleague, the Senator from California, is here on the floor, and I will yield to her in a moment. I have to leave the Chamber myself. But that is what we are proposing today. It is an amendment which we have worked on long and hard. It is an amendment which I think should be looked at in honest terms. My goal is not to put more people in bankruptcy court. My goal is to avoid it. Put them at the table with the banker at least 45 days in advance, avoid the bankruptcy court, avoid the foreclosure, avoid the boarded-up and burned-out building that happens to be right next door to the home you have worked so hard to keep and to maintain.

The Mortgage Bankers Association has claimed, in front of the Senate Judiciary Committee, that this is going to add cost to everybody's mortgage if in fact some people can turn to bankruptcy court. Let me first say that future borrowers aren't even eligible for this bankruptcy assistance. It ends as of January 1, 2009. Future mortgages, future foreclosures aren't even affected by it. It has an ending date.

We also have a quote—and I don't have time to read in detail here—from Adam Levitin, who has analyzed this and says the argument that interest rates will go up because of this provision is plain wrong.

Secondly, they argue that changing the Bankruptcy Code will cause uncertainty in the market. The American Bankers Association says it will add risk. I will tell you this: If you want uncertainty in the market, keep the foreclosures coming, one after another. Let them hit your neighborhood. Uncertainty about your home and its value and whether you can sell it is the reality of what they will face.

They say bankruptcy judges shouldn't be allowed to break the sanctity of the contract. Before we argue about the sanctity of a no-doc mortgage, before we argue about some of the predatory lending practices that led to this mess, let me tell you that the bankruptcy court takes on contracts every single day. That is the nature of the bankruptcy court. To me, that is an argument which goes nowhere.

They argue that allowing borrowers to modify mortgages in bankruptcy would shield them from the consequences of poor decisions. They call it the ''moral hazard.'' In other words, take your medicine, America. You made a bad mortgage, you pay the price. That didn't apply when it came to bailing out these banks when we were asked for $700 billion to make up for the mistakes of these banks. Where is the moral hazard there, as they run off with their parachutes and their bonuses? I don't buy that argument whatsoever.

Finally, they argue that restricting this amendment to subprime and exotic loans is a better way to do it. Well, I can tell you, we know that isn't going to work. There are too many mortgages now in peril, way beyond the original subprime mortgages. And how do we explain to our constituents that we are providing special assistance to borrowers who took out a risky loan, such as a subprime, and ignoring those who have been trapped in other mortgages that create a disaster?

I am going to yield the floor to my colleague from California, and thank her for coming, and I want to tell you something: Her State has been hit harder than any other State. You ought to see what has happened in portions of California. She knows this issue personally, and I thank her, and I yield the floor to Senator BOXER.

The PRESIDING OFFICER (Mr. KAUFMAN). The Chair recognizes the Senator from California.

Mrs. BOXER. I thank the Chair, and before my colleague leaves the floor—and I have only 10 minutes, because of all the responsibilities we all have. I have to be somewhere in 15 minutes—I am here to stand with you, Senator DURBIN, in your courageous effort to stop thousands and thousands of homes from foreclosure and, frankly, to get to the bottom of this economic recession.

We know, because economists have told us, that the problems we are facing all start with the fact that we have had a collapse in the housing market. And, my friend, what you have done is you have taken on the special interests in a way that is very clear. I can only say that I hope when the votes are counted, the people who serve in the Senate do the right thing and support the Durbin amendment.

Mr. President, I stood on the floor of the Senate when we debated the Foreclosure Prevention Act a year ago—a year ago—and I described how hard the foreclosure crisis was hitting this Nation, in particular my State of California, the largest State in the Union. And as we know, what happens in California, good and bad, spreads throughout the country. They say when California sneezes, everybody else gets a cold. The truth is we are having great problems in California, starting with the housing crisis.

I am sorry to say that a year later, after I stood here and said this is a crisis we must address and must address in a far-reaching way, the situation is bad and, frankly, it could well get worse. If we turn our back on the Durbin amendment, it will surely get worse. Foreclosure filings were higher in 2007 than they were in 2006. They were higher still in 2008. And they are at a pace that is going to have them go even higher in 2009. One year ago, when I stood on this floor, we were expecting then 2 million homes to be lost to foreclosure over the course of the crisis. Now that number is expected to be over 8 million homes. If we turn our back on the Durbin amendment, what we are essentially saying is: Oh, the status quo is fine. It is all working out.

The Durbin amendment is a very moderate amendment. It basically says

if a bank and a borrower don't sit down and try to renegotiate a mortgage and reach an agreement on how they can restructure that mortgage so the borrower can stay in the home—and the restructuring is very clear; it should be about 31 percent of income—if that effort is not undertaken and the borrower files for bankruptcy, the judge can look at how to restructure that mortgage. I do not understand how anyone could vote no on this, except if they are dancing to the tune of the banks.

Let me say this: I work with the banks in my State. I respect them, when they are doing the right thing, when they are acting in the public interest, when they are lending to people who deserve to have those loans, when they are not redlining, when they are being fair. I support them wholeheartedly. Oftentimes they are very good neighbors and they donate to charities in the counties, in the communities, in the State of California. But when they are wrong, they are wrong. For them to not work with Senator DURBIN and to walk out of the room when he has modified his proposal in such a way that it is so reasonable? As Senator DURBIN has said: When someone goes into bankruptcy the judge can look at everything, all of their assets—their second homes, their furniture, their cars. But they are prohibited from looking at that first and, by the way, most important asset—the home residence. Why? Because banks over the years have said we do not want our books to look worse, we don't want to take any losses, and we are not willing to budge.

This is a crisis. All of the fallout in the financial sector comes down to the fact that there were entire new instruments created around the value of a home: derivatives, all kinds of paper, all kinds of insurance—all on top of a home. So when the home goes, it goes. The house of cards falls. That is what has happened and one of the reasons is these foreclosures. We can stop a lot of these foreclosures if we adopt the Durbin amendment.

My State is having a very hard time. We can see the number of seriously delinquent homes in my State going up here on this chart. This is 2008. All the way up here is over 8 percent and the actual foreclosures at over 4 percent. This is, in many ways, a virus that is spreading. What happens when a home is abandoned and no one cares about it because many times the banks let it go? Frankly, the mortgage is held by so many people that nobody makes sure the home is kept up, that the pool doesn't become a hazard in the community. We have pictures I showed the last time of a vacant pool being used by kids as a skateboard park. That was probably one of the better things that was happening in the neighborhood. Homes are being looted. The value of the next-door home goes down and the crisis continues to spread.

Look at what is happening in my State. One out of every 24 homes in Merced has filed for foreclosure. In Stockton, 1 out of 27. Riverside-San Bernardino, 1 out of 28. Modesto, 1 out of 29 homes.

When you go to these beautiful areas of my State, 1 out of 27 homes in Stockton has filed for foreclosure. In Bakersfield, 1 out of 37; Vallejo, 1 out of 37; Sacramento, 1 out of 47. It goes on and on and it is getting worse, and the Durbin amendment will help us. Why? These are just numbers. There are families in these homes, obviously. If they have a chance to restructure their mortgage, then they might well want to use the opportunity to do so in a bankruptcy court.

We all know that our home—those of us who have been fortunate enough to buy a home—in many cases is our biggest asset. When that home goes down in value, that is bad enough. But when we are in a mortgage that suddenly ticks up and we cannot afford to stay in our home and we suddenly lose our job and have to take a job that is a lower paying job, because of the ramifications that this is having on the economy, we are in trouble and our families are in trouble.

At the end of March, Californians experienced 363,891 foreclosures since 2007. Think about it, more than 300,000 of our families have experienced foreclosure since 2007. We had 6 of the top 10 and 13 of the top 20 metro areas with the worst foreclosure rates. Today we have another opportunity to help stem this crisis. If we miss this opportunity, it is our fault and we should be judged on this vote. That is how strongly I feel.

The bill before us makes changes to the HOPE for Homeowners Program, such as reducing fees and administrative requirements to make the program more attractive to lenders and borrowers. It provides a safe harbor against lawsuits to protect servicers who participate in the mortgage modification program. That is all good and it is helpful. But the one piece that is missing is the Durbin amendment, which would allow borrowers at risk of foreclosure to receive assistance from the bankruptcy court in restructuring their loans so they can keep their families in their homes.

I have met children who have said they cry themselves to sleep every night because they think they are going to lose their home, and their home is their castle.

For us to turn our back on the Durbin amendment for some rationale that, when stripped away, comes down to ''because the banks don't like it,'' would be a travesty of justice for these children.

I believe had Senator DURBIN's proposal been passed last year we would have saved hundreds of thousands of homes nationwide. It is as simple as that.

We are saving vacation homes. We are saving automobiles. We are saving all these other assets which a bankruptcy judge can in fact restructure. But the main thing we should be saving, the residential home, is not allowed to be brought up in bankruptcy unless we agree to the Durbin amendment.

I have to say, Senator DURBIN is a great negotiator. I have served with him in Congress since the 1980s and I know he listened to the bankers. I know he changed and modified his amendment consistent with what they said and consistent with President Obama's housing affordability plan. Again, the borrower cannot seek a modification through bankruptcy unless the borrower has gone to the lender and said let's negotiate. If that doesn't bear fruit, then they can bring it into the bankruptcy court.

President Obama's housing plan gives great incentives to lenders to make loan modifications. But his plan also included the contingency that a borrower could seek relief through bankruptcy if all else fails. This is a critical additional incentive to ensure that lenders and, frankly, borrowers do the right thing. It says a borrower and a lender must sit down and try to resolve the mortgage problem before the borrower can go to court. We believe, even with the changes that Senator DURBIN made, 1.7 million homeowners could have their homes saved.

Let's think about it—1.7 million homeowners. Almost 2 million homeowners. That is larger than the populations of some of our States. We can help 1.7 million homeowners.

We have allocated trillions of dollars to reduce the threat to the financial system posed by toxic assets. That was the hardest vote I had to make in my lifetime. It was hard. I lost sleep over that vote. But I was told by Ben Bernanke and Hank Paulson that the whole financial system could collapse around us, we would lose capitalism, we would lose our free market system, we would be in panic, and I voted yes to trillions of dollars, because I am very worried. I shouldn't say trillions—hundreds of billions.

How do we look ourselves in the mirror if we have voted billions, hundreds of billions of dollars to save the banks, even though we know some of them have taken advantage of that, and companies such as AIG have taken advantage of it, and they have given these huge bonuses to people who do not deserve them? We know what a nightmare that is. But how do we do that in the name of saving the financial system and turn our backs on homeowners, middle-class people who are suffering because of the fallout of these bad financial decisions?

If we bow to the banks on this amendment, I personally think it is a stain on this Senate, a stain that cannot be rubbed out. This is an amendment that is fair. This is an amendment that is modest. This is an amendment that has been negotiated. Senator DURBIN has done everything in his power to reach agreement. What remains is a very modest amendment.

I will close by again explaining it. The Durbin amendment basically says that when homeowners are in trouble and at risk of losing their home and going into bankruptcy, if those homeowners reach out to the lender and they sit down and try to renegotiate a package on those mortgage payments, if they do it in good faith but it doesn't work out, then and only then can a homeowner go to bankruptcy court and ask the judge to please help and restructure their mortgage.

That passes every test of fairness. That passes every test that you would say an amendment should pass: fairness, justice, pragmatic, listening to both sides.

I am here filled with hope that we can send a message today to the American people that we stand on the side of our families. Yes, we will work with the banks and try to get them to do the right thing. DICK DURBIN has done so. But if they are stubborn and they will not agree, and because they are stubborn and they will not agree, it means this housing crisis will continue to deteriorate, I have to say I am going to be very sad if this Durbin amendment does not pass.

This is the time to act. I said it a year ago. I predicted worse things would happen. I didn't do it out of whole cloth. We have the economists in our office, in our State, who see this. We need to act now or we will be back here in a year with the Durbin amendment. It will fly through here and people will say, and I predict: Gee, I was wrong.

Let's not go there. Let's do this. It is the right thing to do. It makes this bill strong and it does what the President intended when he originally sent us his housing rescue plan.

Mr. President, I want to say, although he is not on the floor, to our leader on this, DICK DURBIN, how much I respect him and admire him. I know the courage it takes to stand up to the special interests. He has done it in behalf of the families of Illinois and this great Nation. I hope he will prevail on this amendment.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I ask unanimous consent the time be equally divided on the quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I now suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MERKLEY. Mr. President, I rise today in strong support of the bankruptcy lifeline being offered by the senior Senator from Illinois. This bankruptcy lifeline is at the core of the housing bill passed by the House of Representatives and now under debate today in the Senate.

In the last few years, millions of families were led into unsustainable home mortgages that pushed our country into an unprecedented economic crisis. With the collapse of the housing market, many are trapped in mortgages with unbearable interest rates and principal significantly higher than market values.

No one wants to walk away from the home they purchased, with neighbors they like, a school their children are doing well in, a town they feel comfortable in, but many cannot afford to pay under the terms of the mortgage they currently hold.

I have already spoken on this floor about the need to ban deceptive practices in mortgage brokering, practices that steer unknowing customers into complicated and expensive mortgages. A ban on steering payments and prepayment penalties would go a long way toward ensuring that we do not get into this situation again.

But right now we are confronted with what to do about those who already put their life savings on the line to attain a slice of the American dream and who are on the verge of seeing that dream shattered.

Unfortunately, we are now in the midst of a recession—there is little prospect of housing prices returning to their bubble levels for many years, and almost 50,000 Americans are losing their homes every week to foreclosure. This is a sad and destructive phenomenon. Foreclosure tears apart neighborhoods and destroys family savings. It also has proven to have a devastating effect on our financial system.

In fact, subprime foreclosures are, as we all know, the primary reason our banks have been hemorrhaging money. The billions in write-downs our banks have taken and the billions of taxpayer monies our government has placed into them is due to the collapse of the housing market and the decline in the value of subprime—and now prime—residential mortgage-backed securities. All the TARP money in the world will do little for the banks unless and until we stabilize housing.

Fortunately, we have begun to get on the right path with housing. The Obama administration's Making Home Affordable plan takes a commonsense approach of lower a borrower's monthly payments. Similarly, the Hope for Homeowners Act, with a few fixes, has great potential to help. But neither plan has the ability to take on the major problem still outstanding in the housing market—underwater mortgages. Senator DURBIN's amendment before us today tackles the problem head-on.

What does this amendment do? In practice, its main use will be to force loan servicers to sit down and genuinely negotiate a reasonable mortgage adjustment. My office gets calls every day from constituents in Oregon who can't get a response from their lender or loan servicer. One constituent called her bank 13 times and never was able to talk to the right person. Sadly, she, like so many others, ultimately lost her home.

The Obama plan will improve the situation by offering a number of carrots to lenders and servicers. But we also need to hold out the possibility, when servicers don't respond, of providing a lifeline opportunity.

My colleagues are all familiar with the program ''Who Wants to be a Millionaire?'' When there is no ability to answer the question, there is a lifeline. In this case, when there is no ability to connect with the servicer to have a conversation about a win-win solution—a solution that is right for the homeowner because they are able to stay in their home, a solution that is right for the mortgage owner because the mortgage continues to be paid, albeit at somewhat lower rates—it is still right because the mortgage owner doesn't benefit from foreclosure if they only get 50 cents on the dollar. This is a win-win win because investors affected by the Federal financial circumstances find an improved situation when fewer homes go into foreclosure. It is a win for the community because we don't have an empty house on the block driving prices down further. We have an opportunity that is right for the community and for the mortgage owner and for the homeowner and for the economy. That opportunity is before us today in this amendment.

Certainly, even with adoption of this amendment, some families will need to enter bankruptcy, which is not an outcome we desire for any family but one that some may have to consider. Remember that this bankruptcy power is not extraordinary. A Federal bankruptcy judge already has the power to modify debt on a vacation home, an investment property, a credit card, a car loan, even a yacht. Why can't the court make any modification to a family's primary assets, the important piece of the American dream known as home ownership? I can think of no good reason.

Some have argued that allowing judicial modification to mortgages on a primary residence could increase interest rates on future home loans, perhaps by as much as 2 percent. But does this stand up to examination? After the current bankruptcy court system was set up in the 1970s, some courts interpreted the Bankruptcy Code to give them authority over mortgages on primary residences. This divergence of practice went on until the early 1990s.

Thus, we have a living test case. Studies have been done examining the interest rates in both types of districts—those that allowed bankruptcy modification and those that did not—and found no difference in the interest rates. Even if they had, the amendment before us today would not present this problem because, in the course of conversation, in the course of working out an agreement, only loans originated before January 1, 2009, are eligible for bankruptcy modification, only existing loans, not loans going forward. This primary concern that has been raised has no merit.

Let me emphasize, again, that reductions in principal negotiated in bankruptcy court will be good for the banking system. Credit Suisse estimates that 9 million families may lose their homes in the next 4 years. Foreclosure is a disaster for the family. Large numbers of foreclosures destroy home values across neighborhoods. But from the lender's standpoint, foreclosure means they are likely to net only 50 or so cents on the dollar. In the case of any homeowner with a reliable income—and chapter 13 bankruptcy is only for people with a continuing source of income—it is much better for the lender if the homeowner remains in their home and makes a monthly payment, even if it is at a somewhat reduced rate, rather than turning the keys and putting the property into foreclosure.

A couple of additional points: This proposal will not cost the taxpayer one dollar, nor will it overwhelm the Federal bankruptcy courts. The same claims were made in 2005 prior to passage of the Bankruptcy Reform Act. But in fact, the courts have handled the increase in caseload quite successfully. My office has talked with bankruptcy judges, attorneys, academics across the country. All are confident that the court system can handle any increase in caseload that would result from this legislation.

This legislation is important to Oregon. It is important to the citizens in my State. According to data compiled by Moody's Economy and the Center for Responsible Lending, without this bankruptcy lifeline, over 15,000 families will lose their homes to foreclosure. I imagine the situation is quite similar in every State. The cost of these foreclosures has been magnified several times over, costing those citizens whose homes neighbor the foreclosed sites nearly $1.5 billion in equity. That is in Oregon alone. Will those neighbors then be underwater with their homes worth less than what they owe on their house, and how long will this cycle continue?

The bankruptcy lifeline amendment offers us a win-win solution. Forcing real mortgage modifications will keep Americans in their home, arrest the decline in property prices, and stabilize the balance sheets of banks.

I urge colleagues, in the strongest possible terms, to provide this win-win opportunity. We have done so much to help Wall Street. It is time to help working families across America, keeping them in their homes and stabilizing the financial system.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I compliment my colleague from Oregon on some excellent remarks. I thank him for being so steadfast in working toward this issue. He has spoken up many times at meetings and caucuses about it.

I rise in support of this amendment that would alter the Bankruptcy Code to allow bankruptcy judges to modify primary home mortgages. By now we are all familiar with the problems. Too many people borrowed too much money from too many banks that were too willing to lend. There is plenty of blame to go around. Now millions of American families are facing foreclosure over the next few years as a result of exotic mortgage products such as 2–28s, pay-option ARMs, and interest-only loans that disguise the full cost of home ownership. We have been pushing banks to do loan modifications for more than 2 years now and, frankly, we don't have much to show for it.

While I am optimistic the administration's plan will produce a significant improvement in modification efforts, it is also certain there will be intransigent servicers and investors who will try to block the process, to squeeze every last cent out of a home, even if that means it is costly for their family, their community, and the country at large.

We have offered lenders and servicers plenty of carrots, but it is unfortunately clear we also need a stick. The reason the programs in the past have largely not worked is it was just carrots and no stick. We need both. That is what the legislation gives us, leverage to push servicers, lenders, and investors to act in the best interests of the economy as a whole.

This amendment to the bankruptcy law is so important because of the changes the mortgage industry has undergone in the past few decades. It used to be that when one wanted a mortgage, they would go to their local bank where they would lend the money and collect payments for 30 years. That meant if one ran into trouble, they had a familiar friendly face to turn to, someone who knew them and their family and who had an interest in helping work out the mortgage payments so they could stay in the home. It also meant the bank had an interest; one entity had an interest in the whole mortgage. It wasn't chopped up in so many pieces. That is what has happened.

Over the past two decades, with the growth of securitization, it has all changed because the mortgage has been divided into pieces, sold off to investors around the world. They are often difficult to identify and impossible to contact. Their primary concern is squeezing every last cent out of the mortgage loan, whatever the impact on families, on homeowners. That means if the best outcome for even one of those investors is foreclosure, a homeowner is not likely to get the help he or she needs to stay in their home.

One other point that is vital: It may be that there are 40 investors who each have a piece of the mortgage. It may be that 39 of them have an interest in a loan modification. But if that one intransigent investor, who probably got the highest rate of interest because he or she took the most risk, says no, the whole process comes to a halt—not only bad for the poor homeowner but bad for the other 39 investors. It is bad, most of all, for the economy as a whole. It is not that one intransigent investor might say: Look, I will lose all my money if there is a loan modification. If I sit and wait for 5 years, then maybe housing prices will come up to where they should be and I will get my money back. In the meanwhile, the economy goes down the drain for everyone, because the more foreclosures there are, the lower housing prices get. The lower housing prices get, the less likely banks are to lend. The less likely banks are to lend, the less money is in the economy. The recession gets worse and worse and worse.

It is not only a problem for the homeowner when there is an intransigent bondholder who will not yield; it is a problem for the other investors who will lose money in foreclosure.

It is a problem for the neighbors of the homeowner whose property values are going to decline and for the country as a whole since our housing markets are already inundated by a glut of unsold homes, driving down home prices and destabilizing the financial sector.

How do you get that intransigent bondholder to the table? Well, there is a contract. We cannot break a contract by law. But the one place in the U.S. Constitution where a contract can be modified is bankruptcy court. Bankruptcy courts are the only constitutional way to overcome the securitization contracts and restore some power to the homeowner himself or herself.

Moody's Economy.com estimates without this amendment 1.7 million loan modifications that would have happened will not occur. These figures show that 1.25 million homeowners whose servicers are unwilling or unable to help them will not have the protection of the bankruptcy courts, and almost half a million homeowners who would have gotten modification offers will not because servicers or investors will calculate that a foreclosure is worth more to them than a modification.

The proposal is the result of weeks and weeks of talks that never yielded compromise that we hoped for. I see my colleague from the State of Illinois, Senator DURBIN, in the Chamber, who worked so long and so hard on this

issue and deserves all of our thanks. He was in the middle of trying to get this done. Senator DODD and myself tried to help but to no avail. It is clear that parts of the mortgage industry were never interested in meeting us halfway. As the negotiations went forward, they moved the goalposts back and back and back. And when concessions were made that were well beyond what anyone thought, they walked away because they never wanted to deal.

Hindsight is wonderful. It is unclear if those who entered the discussion—at least some of them—ever entered in good faith. But the industry stakeholders, who obviously have the most to lose, ought not hold total sway. Just because they walked away from the table does not mean we cannot vote our conscience on a proposal that would help preserve the American dream for millions of families and get our economy going again.

What makes me so eager for this proposal to pass, and why I worked long and hard, is that as much as I want to help individual homeowners—and, believe me, I do—our economy is at risk. Millions who might rent or have paid their mortgage could lose their jobs, and it all comes down to this proposal. Because if we decrease foreclosures, we will find a floor to the home market, which will then allow banks to lend, which will then get our economy going. It is like the knee bone; to the thigh bone; to the hip bone. Foreclosures are connected to the housing market; the housing market is connected to the health of banks; the health of banks is connected to the economy.

So when President Obama announced his foreclosure prevention plan, it included lots of lucrative incentives to lure banks to participate, but it called for some tough medicine: this bankruptcy proposal. And both are needed. We need carrots and sticks. The President's housing plan will not be as effective if parts of it are sacrificed for political expediency. Loan servicers should not get to accept the parts of the President's plan they like and reject others. That was never the deal.

To reject this proposal is to provide only sweeteners and no stick to get banks, servicers, and investors to modify troubled loans. The bottom line is fewer homes will be saved for American families. The defeat of this amendment would be a sad day for homeowners, for the housing market, for financial institutions, and for the overall economy. Allowing that to happen is unconscionable.

I urge my colleagues to adopt this amendment. We have an opportunity to make a major dent in the housing crisis and prevent further declines in home prices.

Let's understand, once again, the housing crisis remains at the core of our economic problems. As long as home prices continue to decline—and without this legislation they are far more likely to—our economy remains at grave risk of further contraction. We cannot let this opportunity slip by.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from New Mexico.

Mr. UDALL of New Mexico. Madam President, I rise today because I believe the Durbin amendment we are considering today is more than a tool for solving America's current economic problems, it is the right thing to do for millions of American homeowners.

Like many of you, I had the opportunity recently to spend 2 weeks with my constituents talking with people at townhalls and community get-togethers around New Mexico. I heard one message over and over. My constituents feel that too often America has one set of rules for the rich and powerful and a different set for working families.

Wall Street can fail and still make millions. On Main Street, even people who work hard get dragged down. Irresponsible lenders thrive while credulous borrowers lose their homes. Everywhere you look, you see middle-class Americans paying for other people's mistakes. It does not seem fair.

Of course, the law rarely contains an explicit double standard. But today we are dealing with a situation in which it does.

If a real estate speculator borrows millions to buy a city block and then finds himself unable to pay, he can walk into court and ask the judge to reduce the principal on his loan.

If a working mother borrows $30,000 to buy that first home for her children, she is stuck with that loan. If she has lost her job, she is stuck with that loan. If the value of her house has plummeted, she is stuck with that loan. If she was the victim of predatory lending, she is stuck with that loan.

I have yet to hear a good reason why that working American should not have the same rights as every real estate speculator and vacation homeowner in this country. My constituents do not think that is fair. And you know they are right.

Sometimes you hear people defend unfair rules because they are good for the overall economy. They say that efficiency should be prized over equity. But that argument does not work here. By limiting judges' ability to reduce the principal on home loans, we are delaying the resolution of this country's mortgage crisis. Homeowners continue to struggle with loans they cannot pay, and the toxic assets based on those loans remain on the balance sheets of America's financial institutions.

Elizabeth Warren, the head of TARP'S Congressional Oversight Panel, has made the point very clearly. She says:

> The law recognizes everywhere the importance, in a financial crisis, of recognizing losses, taking the hit and moving on.

That is why she supports the mortgage modification provision we are considering today. When judges have the power to provide a fair resolution for banks and borrowers, we will be one step closer to recognizing those losses in our housing sector, taking the hit, and moving on. In other words, the Durbin amendment puts us one step closer to fixing the financial system. For this proposal's benefits will not be felt primarily on Wall Street. Credit Suisse estimates that as many as one in six mortgages in America will be lost to foreclosure in the next 4 years. Homeowners know what happens when a neighbor goes into foreclosure. The whole neighborhood takes a hit. Property values drop. Local governments face another drain on their resources. In some cases, the foreclosed property becomes a magnet for crime and an embarrassment to the community.

For most Americans, their home is their largest investment. The best way to protect this investment is to stop unnecessary foreclosures. In my home State of New Mexico, the Durbin amendment would protect an estimated 6,665 homes and almost $376 million in equity. Without spending a dime in Federal money, this Congress can make a significant contribution to stabilizing my State's housing market and keeping thousands of families in their homes. This is not a tough choice.

Opponents of this provision make two related arguments. First, they claim a mortgage modification provision will raise the cost of home loans. Congress has heard testimony about this issue, and the evidence suggests otherwise. I will not go too deeply into this right now, but I encourage you to look at the testimony before the House Judiciary Committee of Adam Levitin of Georgetown University Law Center. Professor Levitin is one of a chorus of academics who has poked holes in the arguments against mortgage modification.

Opponents of mortgage modification also argue that loan restructuring should be handled by bankers and borrowers—not judges. I could not agree more. Unfortunately, banks have so far been very reluctant to voluntarily restructure home loans despite a host of Federal incentives. A considerable body of evidence suggests that banks would actually do better if they were more willing to restructure loans. Foreclosure is bad for everybody, and bankruptcy is even worse.

Congress and the President have worked hard to encourage banks to modify home loans. We have handed out carrots like a farmer's market, and yet we still have a foreclosure crisis. It is time to give the homeowners a stick.

The Durbin amendment does not let every homeowner march into court and demand a principal reduction. Banks have the opportunity to work with homeowners on a reasonable compromise. As long as banks are willing to negotiate, they will not face a court-ordered principal reduction.

All this legislation says is that banks cannot ignore their borrowers. They cannot stand around while working families struggle with unpayable loans. That sounds fair to me.

The debate on this issue can get extremely complicated. But the final analysis is simple: The current system is unfair. It is bad for working families, and it is devastating for the American economy. The Durbin amendment is a step in the right direction. I hope you will join me in supporting it today.

Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I thank the Senators from Oregon and New Mexico, as well as the Senator from New York and the Senator from Connecticut, for speaking on behalf of my amendment.

I would like to make a unanimous consent request that has been cleared by the other side: that of the 4 hours that have been set aside for this debate, the last 30 minutes be preserved and equally divided between the two sides, with 15 minutes to a side; under the custom of the Senate, if we go into quorum calls, time is taken equally from both sides. We have actively spoken on this amendment on our side, and no one has appeared yet, though I think they will soon, on the other side.

So I ask unanimous consent that notwithstanding the usual tradition of quorum calls taking the remaining time, dividing it by half, that the last 30 minutes be insulated and protected from that, and it be allocated 15 minutes to a side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut.

Mr. DODD. Madam President, let me, first of all, thank our colleague from Illinois for his tireless work on behalf of this idea. I joined him, along with Senator SCHUMER, early on in recommending a proposal like this.

History is always a good source to go to. Back in the spring of 1933—which is about as close an example we could probably find over the last 100 years that compares to the days we are in today. Of course, that was the height—or the beginning—of the Great Depression. In 1929, certainly, it all began.

After the election of 1932—during that now often repeated ''first 100 days'' of each administration—and that was the first 100 days ever talked about. It was the Roosevelt administration. The inauguration was in March of 1933. Inaugurations occurred in March in those days, not in January. So that 100 days ran from March until June. One of the first things the new administration did in the face of significant foreclosures across the country—and there were significant ones. They were major. Those days were, in many ways, far more difficult than the ones we are in.

These are bad days, obviously, with 10,000 homes a day going into foreclosure, with 20,000 people a day on average losing their jobs. Retirement accounts are evaporating. We have all heard about, read about, and know people that has occurred to.

But one of the things the new administration did in those days was to go out and actually purchase the home mortgages. The Federal Government actually did that. In order to stem the tide of foreclosures, the U.S. Government decided in those days that it would take over that responsibility. They did other things as well: put capital into banks to stop the runs that were occurring across the country—major steps. But in home foreclosures, they took the unprecedented step of trying to stem that tide, knowing how much damage foreclosures could cause, not only to families and neighborhoods and communities but also to the financial system.

Senator DURBIN is not advocating anything quite as revolutionary as the Government acquiring the mortgages of every home. While some have made that suggestion, he is not doing so. What he is suggesting is modifying the bankruptcy laws of our country for a limited amount of time, in a very narrow set of circumstances, to say: Where your primary residence is concerned—and for those who have not followed the debate, let me explain.

There is no restriction in a bankruptcy court for a bankruptcy judge to modify—or at least to negotiate—the modification of your mortgage if you have a vacation home or if you have a pleasure boat and have a mortgage on that. The bankruptcy judge can modify the mortgage on that beach house, that mountain cabin, that yacht you may have. That is perfectly legitimate under bankruptcy laws. What you are not allowed to do, if you are a bankruptcy judge, is to modify the mortgage on a principal residence.

I don't know if statistically what I am about to say is accurate. I suspect that most Americans who have a principal residence don't have vacation homes. I know some do, and that is perfectly legitimate. I am not arguing that you shouldn't have one. But explain to me, if someone will, the distinction on why a vacation home, a yacht, a mountain cabin—as nice as it is to have one—ought to be able to be subjected to a workout with the mortgage involved, and yet, for the person who only owns one home, as most do—you own one house—a bankruptcy judge is prohibited from engaging in a workout between the lender and the borrower on that principal place of residence. For the life of me, over the last number of months we have been involved in this debate and discussion, I have failed to hear an adequate explanation of why there is a distinction on a principal place of residence where a mortgage is involved and there is no hesitation, no restriction whatsoever, on whatever other number of homes you may have. Some have a lot more than two; some have three, four, and five. All of those can be subject to a workout, but not a principal place of residence. That is all we are trying to do here. Not forever, not looking back, not looking forward forever—Senator DURBIN's amendment says for a limited amount of time, under limited circumstances—under the total control of the lender, by the way, because if you turn down a workout as a borrower, then basically you lose the option of working it out.

It is so narrowly drawn under these circumstances that, for the life of me, I don't understand the objection. It is one of those moments where I try—when preparing for debate, we all ask: What is the other side going to argue? So I thought last night, I have to get ready for the other side. I tried thinking through what is the argument I would make if I believed this would somehow cause great harm to the economy, was going to flood our courts or was going to require hundreds more bankruptcy judges to deal with it. What is the argument I would make to my constituents and to the American people that we ought not allow a bankruptcy judge to sit down between the borrower and the lender and work out a financial arrangement that allows the borrower to stay in their home, the lender to be paid—at least getting something back—turning that property into a foreclosed, vacant property, contaminating the value of every other home in that neighborhood. What is the logic? For the life of me, I can't come up with that, and I have tried.

So I would urge my colleagues, as you are thinking about this and listening to these debates, why can't we do what the Senator from Illinois has suggested: For a limited amount of time, try this. It is not forever. It just might do what the authors have suggested, and I am proud to be one of them. It might just do what we failed to be able to achieve despite the efforts of all of my colleagues here.

As chairman of the Banking Committee, we have come up with all sorts of very complicated proposals to try to assist homeowners, and I regret to report that while I think these ideas have great merit and we have all tried hard, they have not been terribly successful, despite the good intentions of everyone to work it out. This is the one idea we have not yet tried to make a difference in the foreclosure crisis.

Before the Sun sets tonight, 10,000 families are going to potentially lose their homes, and that will be true tomorrow and the next day and the day after that. Just think about that. As we all go home tonight to our respective dwelling places here, 10,000 of our fellow citizens in this country will end up losing their homes. They have to come back and face their families. Imagine, if you will, if you were in that position, walking into that house tonight and facing your children and facing your family and saying: We can't make this happen financially. We are being pushed out of this house.

This body cannot, for a limited amount of time, under limited circumstances, try something that might make a difference in that family's condition? I hope, in these very difficult

days—if almost 100 years ago, 90 years ago, another body sitting here in the wake of economic circumstances that were as trying as they were could do something as unprecedented as the Government actually purchasing the mortgages, can we not now ask the Federal bankruptcy courts to sit down and try, for a limited amount of time, to make it possible for that family to stay in their home?

It may not work in every case. The Senator from Illinois has pointed out that of the potentially 8 million foreclosures, his bill may only affect 1.7 million of the 8 million, and for a lot of people, this won't even work, regretfully. But for 1.7 million, it might just make a difference to those families. The value of that—how do I put an economic value on that? What does it say to a family who can stay in a home they have bought, they watched the value decline—the mortgage probably exceeds the value of the home in many cases—but that sense of optimism and confidence, that family staying together during very difficult times?

If you are the next-door neighbor, you live down the block, what happens to the value of your home? We know what happens. In fact, that very day, the value of that home that is not in foreclosure and there is no threat of it, but your neighbor's home now declines by as much as $5,000, then, of course, that property and those other properties could fall into a similar situation. All of a sudden, what was otherwise a healthy neighborhood—people meeting their obligations, equity in their homes—all of a sudden, you watch a neighborhood begin to decline. Just imagine, if you would, you are in the market to buy a home and you are riding down that street and you see a couple of places you might be interested in buying but you see foreclosure notices up on two or three. How willing are you going to be to buy a home in a neighborhood where there are foreclosures? So there is a contagion effect, a ripple effect, beyond just the plight of that family, which ought to be enough motivation to try to make a difference, but if you are not impressed by that, think about that neighborhood and community.

In the city of Bridgeport, CT, in my State, there are over 5,000 homes in that city that are subprime mortgages in danger of going to foreclosure—5,000 homes in 1 city. I don't need to tell anyone in this body what that will mean to that community. The tax base gets lost, but far beyond the financial implications is what it does to the heart of a community, what it does to the heart of a neighborhood, what it does to the heart of a family.

So all we are asking for with the Durbin amendment is let's try this for a limited amount of time to see whether it will make a difference. Maybe it won't achieve the results we authors claim it will, but is it not worth a try to see if we can't bring that lender and that borrower together, to work something out so they can stay in that home? The lender gets paid. It seems to me that has to help.

I agree completely with my colleague from New York, Senator SCHUMER, who made the case, and did so simply. There is a direct connection here. If we are unable to get our housing situation stabilized, all of these other efforts we are making to get the financial system working are not going to succeed. At the root cause of this issue is the residential mortgage market. The failure of us to reach that bottom—to begin to see these values improve and people out purchasing homes will also be not only indicative of the direction we are heading in but also essential if we are going to recover.

Beyond the issue of housing and what happens to families, the very heart of the economic crisis, its roots, began in the housing market. I believe very strongly, as others do who are far more knowledgeable about macroeconomics than I will ever be, that our inability or unwillingness or failure to address the residential mortgage market will make it almost impossible for us to get the kind of recovery we are all seeking on the larger economic issues.

So I wish to commend my colleague from Illinois. He has worked tirelessly. He has brought together the financial institutions. I know many of them mean the very best. There is no ill will involved in this, I presume. I think there is a culture that goes back a long time which says that if a house is in foreclosure or about to go into it, get the family out, put it on the market, sell it to someone else, because the likelihood of that family redefaulting is pretty high. That may be true statistically, but it seems to me that in these circumstances, we are dealing with something very different, far more pernicious, far more widespread, with far greater implications. So even the best argument one might make that historically you do better in getting an economy back on its feet by allowing these properties to go into foreclosure, I think all of us recognize, with the numbers we are talking about here, that accepting that kind of conclusion could be disastrous, as it has proven to be.

I recall January and February of 2007. I became chairman of the Banking Committee for the first time in January of 2007. We had a couple of hearings on currency manipulation, I believe it was, in those days in January, but the first hearings I held in February of 2007 were on this issue. In the 110th Congress, I think we had 80, 82 hearings, and a third and a half were on this subject matter as we tried over and over again to get the industry to step up, to come up with various ideas that would mitigate the foreclosure problem.

I recall at the very first hearing we had a witness who was very knowledgeable about housing issues, and he testified that he thought there might be somewhere between 1.5 million and 2 million foreclosures. He was sort of ridiculed because these numbers were hyperbolic; this was an exaggeration of what would happen. In fact, the critics were correct. It was. He was wrong. It wasn't 1.5 million or 2 million; it has now become 8 million. So those dire predictions in February 2007 have proven to be painfully off the mark because, in fact, the problem is a lot worse.

I believe very strongly that had we in 2007 been able to convince the previous administration to step up and engage this issue in 2007, and even a good part of 2008, we could have avoided what we went through last fall and are going through today as we try to get this economy back on its feet again. But there was tremendous resistance to doing anything despite countless meetings we had, including with the financial institutions, where commitments were made in March and April of 2007 to actually sit down and engage in a workout with borrowers and lenders. None of that ever really happened at all. The numbers are embarrassingly small where workouts occurred, despite the efforts to achieve this without going through a legislative proposal.

Of course, the idea of modifying the bankruptcy laws was one that Senator DURBIN raised early on. We were unable to get it done. Today, we are trying one more time, in a far more constricted and narrow construct of this proposal, over a limited period of time, to affect as many people as possible.

This amendment would also preserve some $800 billion in home equity for neighbors, we are projecting. The list I have of just the properties that could be affected—in my own State, some 15,000 homes could be saved by the Durbin amendment. Looking down the list, the numbers are stunning. In California, I think the numbers I saw are 385,000 homes could be saved by the Durbin amendment. I see my friend from New Mexico is here, and there we are talking about over 6,000 homes would be affected in New Mexico. In the State of Oregon, it is like Connecticut. Over 15,000 homes would be affected, I say to my colleague from Oregon. In North Carolina, I am looking at 38,000 homes, it is projected, could actually be saved from foreclosure, the State of the Presiding Officer.

Madam President, I ask unanimous consent that this list be printed in the RECORD so Members can actually look down and see what a difference this amendment could make in their State.

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

HELPING FAMILIES SAVE THEIR HOMES ACT

DURBIN AMENDMENT STATE-BY-STATE IMPACT

By creating stronger incentives for the creation of voluntary mortgage modifications, the Durbin amendment to the Helping Families Save Their Homes Act would prevent 1.7 million mortgages from falling into foreclosure and would preserve over $300 billion in home equity for neighboring homeowners who have made each of their own mortgage

payments on time (according to estimates from Moody's Economy.com and the Center for Responsible Lending). Based on that estimate and the relative impact of the foreclosure crisis throughout the country, below are state-by-state estimates regarding how many families would save their homes under the Durbin amendment and how much equity would be preserved by neighboring homeowners.

State	Homes saved by the Durbin amendment	Home equity savings for neighbors of saved homes
Alabama	14,480	$287,273,000
Alaska	1,447	74,905,000
Arkansas	7,297	85,016,000
Arizona	63,415	6,732,666,000
California	385,039	121,033,183,000
Colorado	23,373	1,589,310,000
Connecticut	15,461	1,762,362,000
District of Columbia	2,726	2,822,811,000
Delaware	4,282	311,407,000
Florida	206,361	36,772,700,000
Georgia	59,197	1,247,655,000
Hawaii	7,293	3,655,706,000
Iowa	8,089	259,474,000
Idaho	7,342	238,286,000
Illinois	60,594	19,420,658,000
Indiana	27,960	589,237,000
Kansas	6,220	179,676,000
Kentucky	11,750	292,303,000
Louisiana	12,651	496,045,000
Massachusetts	37,330	9,264,833,000
Maryland	48,909	11,173,429,000
Maine	4,878	104,414,000
Michigan	52,884	2,581,196,000
Minnesota	25,001	1,515,320,000
Missouri	22,519	993,960,000
Mississippi	9,042	90,575,000
Montana	2,815	38,149,000
North Carolina	38,667	645,572,000
North Dakota	711	33,523,000
Nebraska	3,763	136,772,000
New Hampshire	5,812	169,863,000
New Jersey	44,585	15,149,105,000
New Mexico	6,411	375,826,000
Nevada	38,243	4,979,857,000
New York	70,808	37,296,477,000
Ohio	43,985	1,528,772,000
Oklahoma	9,322	210,114,000
Oregon	15,261	1,491,292,000
Pennsylvania	37,169	3,325,687,000
Puerto Rico	10,063	n/a
Rhode Island	6,665	1,482,129,000
South Carolina	17,011	298,754,000
South Dakota	1,504	30,513,000
Tennessee	25,208	564,744,000
Texas	82,302	2,798,084,000
Utah	10,988	685,958,000
Virginia	44,035	5,210,416,000
Vermont	1,466	15,138,000
Washington	27,176	3,397,336,000
Wisconsin	15,620	1,189,240,000
West Virginia	4,376	53,792,000
Wyoming	805	17,344,000
United States	1,690,308	304,697,753,000

Mr. DODD. I thank the Chair.

Again, I can't speak with absolute certainty. Maybe the numbers are a bit lower or higher. What if in my State it wasn't 15,000; what if it was 10,000? Frankly, 10,000 homes would be a lot, a lot of families in a lot of neighborhoods in an economy that would be vastly improved if 10,000 homes in my State could be saved from the terrible conclusion of foreclosure.

So we will consider this amendment in a couple of hours. We will vote up or down on it. Then we will go about our business on the housing bill that is before us. But as Senators think about how they are going to vote on this matter in a couple of hours, think about what it would mean tonight at 6 or 7 o'clock when another 10,000 of our fellow citizens find themselves in the serious condition of losing their homes.

What do you say to your children, your family, what it does to your neighborhood. Can we not take a chance and try an idea that colleagues have worked on for weeks now, not overnight—this is not a quickly drawn amendment; it does not consider the concerns of the lenders in the country—to bring this together and give this an effort, as we did last summer with the HOPE for Homeowners and last spring as well.

I urge my colleagues to give this an opportunity to work. In my office, we get about 30 or 40 letters every day from constituents waiting to know whether they can keep their homes. I suspect I am not terribly different in that regard from my colleagues—or the e-mails that arrive in our office in Hartford on a daily basis. In many cases, the answer is—and we hear this over and over. Ed Mann has been with me 30 years. Ed Mann does not engage in hyperbole. He is a quiet, serious man. What he hears day after day in our office is: I have tried to reach my lender. I have called and called and I can't get hold of anyone. Can I get any help? That is repeated over and over.

I say this respectfully, but I believe in this proposal, which I think will cause lenders and borrowers to get together to try and work these matters out, the lender controls everything under the Durbin amendment. They have total control of the process. It is not in the hands of the borrower; it is in the hands of the lender and, obviously, the proposal of a bankruptcy judge being able to engage.

I met with my Federal judges—district court judges, appeals and bankruptcy court judges. To a person, every one of them said: You ought to pass this.

These are people who work on this every day. These are serious appointees in the Bush administration, as well as the Clinton administration. Some go back further, in fact, to the Reagan administration. To a person, all of them said: Get this done. This makes sense. These are bankruptcy judges. They are not frightened of the caseload. They are not afraid of trying to bring people together to save home ownership. Our bankruptcy judges believe this is right.

The civil rights groups of this country believe this is right. A long list of people worked on this. But our principal debt of gratitude goes to the Senator from Illinois who has been tirelessly championing this concept and idea. Senator SCHUMER has worked very hard as well on this issue.

My hope is, in the next couple of hours, we might surprise the country and actually do something to keep people in their homes. What a great message tonight that would be, instead of walking through the door saying: I think we lost our home, saying: There is a chance we can keep our home, keep our family together, weather this storm, and come out of it stronger and better because the Government is not going to just sit back and allow nature to take its course and subject me and my family and my neighborhood to the vagaries of the foreclosure process. People are on my side fighting for me. We can do that today in a united, bipartisan fashion by allowing this simple idea to have a chance to succeed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, Senator DURBIN's amendment would allow bankruptcy judges to modify home mortgages in bankruptcy court by lowering the principal and interest rate on the loan or extending the term of the loan. The concept in the trade is known as cram-down. It would apply, in his amendment, to all borrowers who are 60 days or more delinquent on payments for loans that originated before January 1, 2009, and would set the maximum value of loans that qualify at $729,000. It is broader than the bill that was tabled in the Senate several months ago.

Senator DURBIN sincerely believes his amendment would help save homeowners who are at risk of losing their homes in foreclosure, and I respect that. But many experts believe the cram-down provision would have pernicious, unintended consequences on the mortgage market.

First, it would result in higher interest rates for all home mortgages, exactly what we do not want while we are trying to entice people back into the market. Interest rates on home loans are substantially lower now than other types of consumer loans because of the guarantees current law provides to lenders. If all else fails, the lender always has the right to take back the house for which it lent the money. If we eliminate this security for lenders and increase the risk inherent in making a home loan, then lenders will have to charge higher rates on interest for home loans to cover the risk. The net result of the amendment, in other words, will be higher interest rates for home loans and fewer Americans who will be able to afford to buy a house—not what we need to end the housing crisis.

While attempting to solve a specific problem for a particular group of people, we could end up exacerbating this situation for all the people who would want to refinance or to take out loans in the future.

As I said, experts agree and studies show cram-down will result in higher interest rates. That is why it is opposed by virtually all in the industry.

The Congressional Budget Office warned in January 2008 that cram-down could result in ''higher mortgage interest rates'' because lenders are forced to compensate for potential losses that will be levied upon them in bankruptcy court.

In hearings some years ago before the Senate Finance Committee, in 1999, Senator GRASSLEY asked Lawrence Summers, who now serves as President Obama's head of the National Economic Council, if '' . . . debt discharged in bankruptcy results in higher prices for goods and services as businesses have to offset the losses?'' Mr. Summers responded as follows:

The answer is—it's a complicated question, but certainly there's a strong tendency in

that direction and also towards higher interest rates for other borrowers who are going to pay back their debts.

In November 1986, Congress implemented a mortgage cram-down provision for family farmers under chapter 12 of the Bankruptcy Act—obviously, the same well-intended purpose here. According to a 1997 study, farmers faced a 25- to 100-basis point increase in the cost of farm real estate loans, as well as increased difficulty in obtaining financing as a result of the cram-down application. The current median value of a new home in the United States is $206,000. A 25- to 100-basis point increase for the $206,000 would increase the cost of the mortgage by over $47,000.

We are talking about substantial impacts as a result of this well-meaning provision that would, in fact, over the entire market be very bad.

Proponents of the bill argue it should be allowed because, after all, bankruptcy law already allows a version of this for vacation homes. Big difference. What proponents do not mention is that to qualify for cram-down on a vacation home mortgage, the debtor is required to pay off the entire amount of the secured claim within the 5-year length of the chapter 13 plan. The Durbin amendment, of course, does not include the requirement that the debtor must pay off the security claim within 5 years. He does not purport to treat cram-down on primary homes the same way the Bankruptcy Code treats them on secondary homes.

There is a third point with respect to this particular amendment. As I said, it is different from what we tabled before. It is a much broader amendment. It is not the sort of narrow, targeted approach to the problem some people like to characterize it as.

Unlike prior proposals, this bill is not limited to the high-risk or subprime loans or other nontraditional loans but allows cram-down for all loans. Let me repeat that. Unlike what we dealt with before in prior proposals, this cram-down amendment is not limited to high-risk or subprime loans or other nontraditional loans. It would allow cram-down for all loans. The only limitation, as I said, is that the loan had to originate before January 1, 2009, and the maximum amount—not much of a limitation—is $729,000, and the borrowers would have had to apply for relief under the Loan Modification Program. Other than that, there is no limitation, and as I said, it would apply to any kind of mortgage. This would, obviously, allow millions of borrowers to enter into bankruptcy and simply walk away from the debt owed on their homes.

I don't take this position lightly because my State is arguably the hardest, certainly one of the hardest hit by the foreclosure crisis. People in my State face this every day. I wish to help Arizonans stay in their homes. Every time I go home, which is virtually every weekend, I talk with people who are, in one way or another, related to the problem because so much of the business in Arizona has to do with home building and development and construction. So many people have had problems with their mortgages. As I said, many are being foreclosed. All the others, the foreclosures, of course, represent a relatively small percentage of the total of 100 percent of loans. Most of the people I talked with are upset because the value of their homes has declined so much, among other things, because of their homes being foreclosed upon. They wonder: When is the market going to hit bottom; when am I going to be able to sell my home for something similar to the equity I have in it.

Values from assessors have shown that values have decreased by some 50 percent in amount. It is in our best interest to see this mortgage market bounce back, to see people be able to buy homes again and, frankly, to sell homes at somewhere near a realistic price related to their real value. This is a good time to enter into the home market if you have the money to do it because prices are so low and interests are so low. But the problem with this bill is it will make the interest rates higher and, therefore, will make it more difficult for people to afford to get into a home, the net result being the recovery will be extended far beyond what it otherwise would be under normal circumstances.

In my home State of Arizona, people are wondering: Will it be 6 months, 1 year, 18 months? I guarantee whatever that amount is, it will be longer if this bill passes. It will be longer because interest rates will increase, people will not be able to sell their homes and, therefore, we will continue to have the problem we currently have.

There are other programs available. I mentioned one. There is the HOPE NOW Program, the HOPE for Homeowners Program, and the President's new $75 billion program that helps borrowers who are facing foreclosure to modify their loans and allow the so-called underwater borrowers to refinance into lower rate mortgages. These are the people whose home value is less than the amount owed on their mortgage.

There are programs available. All of us are talking to banks about working out loans with the people who face foreclosure. But a solution that may be well meaning but would have the unintended consequences this particular amendment has is not the answer. We should not simply grab onto something because it promises to provide some relief to some people, when the reality is that I think all the experts agree the interest rates would be increased, making it much more difficult for the 95 percent or so—I am not sure of the exact percentage—of the other people who would like to see this home mortgage crisis come to an end.

Bottom line: cram-down will not fix the recent downturn in the housing market but only prolong the recovery by increasing interest rates. Instead of encouraging homeowners at risk of foreclosure to file for bankruptcy, the Federal Government should continue to encourage lenders to work with owners to modify loans where it is economically viable for homeowners to remain in their homes. Obviously, not all homeowners are going to be eligible for loan modification. But the answer is not to incentivize bankruptcy by making it as the only means to save one's home.

I hope that when it comes time to vote against the Durbin amendment, we will recognize we have already tabled an amendment which was much more narrowly written and that this is an amendment which deserves to be defeated.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. Madam President, we face a grave economic crisis, and it is our responsibility, our duty as representatives of the American people, to give them every tool they need to weather this economic storm.

There is much we have already done to help. Working with President Obama, we cut taxes for middle-class families—because in times like this, every little bit helps. We gave an extra $250 payment to seniors on Social Security and disabled veterans to help them make ends meet when their household budgets are stretched to the breaking point. Preserving jobs means preserving our families' livelihoods, so we are investing billions of dollars in new infrastructure to create and support jobs all across America.

Today, Madam President, we want to take on one piece of America's unfinished economic business. Many families in this country—too many—have found that making ends meet is impossible, and they are in the process of filing for bankruptcy. Four years ago, when Congress overhauled the Bankruptcy Code, our Republican colleagues suggested that those who file for bankruptcy had carelessly lived beyond their means and were trying to game the system—at best, irresponsible; at worst, engaged in fraud. But in the years since, we have seen that was not true.

Families don't enter bankruptcy casually to save a few dollars. Bankruptcy is a last resort for individuals and families on the brink of financial collapse. The vast majority of those who seek bankruptcy are struggling, working families. With the economy in its weakest condition in decades, bankruptcy filings are soaring. Tragically, the most common reason for bankruptcy has been health care costs—

compounding the heartbreak of illness or injury with the strain of financial distress—but a lost job or ruined pension can be just as devastating. And many families file for bankruptcy because the mortgages on their homes have gone through the roof and they simply can't afford them any longer.

Too many homeowners were coaxed into bad mortgages—with the promise that values would keep going up and up and up—in many cases, without even understanding the hazards built into the small print of the mortgages they assumed. Well, the bubble has burst, and now these homeowners are stuck with mortgages that are larger than the home itself is worth.

Ordinarily in a bankruptcy, judges can modify the terms of debts or obligations, including loans on vacation homes and on family farms. These modifications help prevent foreclosure and permit people to keep making payments on their reset loans. That is good because when a house is foreclosed, neighboring property values decline, tax collections decrease, and schools and communities suffer. Helping prevent foreclosures, as this amendment would do, will help rescue falling home prices and get the housing market back on track—and that will help all homeowners, not just those who are facing bankruptcy.

Under current law, Americans looking to bankruptcy to escape unbearable financial strains cannot modify the terms of the very contract most dear to any family facing bankruptcy—their principal residence, the place they call home, where they raise their children, where they know their neighbors, where they live their lives. They can face foreclosure, even homelessness. The neighborhood erodes, and a cascade of dire consequences ensues.

To remedy this, the distinguished Assistant Majority Leader, Senator DURBIN of Illinois, has offered an amendment that would temporarily, and with conditions, give primary residence mortgages the same treatment in bankruptcy as other types of secured debts. Like any secured creditor, the mortgage holder would be entitled to adequate protection of his or her property interest during the bankruptcy. The modification of the mortgage would be limited to a market rate and a term of no longer than 30 years.

Given the cost of foreclosures, which average $60,000 per incidence—setting aside the harm to the family of losing their home, or the neighborhood of having another shuttered, plywood-covered building on the block—it would seem that this amendment to the code would ultimately benefit all of the parties to the mortgage. But on this question, the big banks seem to be inured to suffering and deaf to common sense.

Despite requirements protecting banks that families give their lender 45 days' notice before filing for bankruptcy—that allow lenders to prevent forced modifications if they offer voluntary modifications as part of President Obama's Housing Affordability and Stability Plan; that sunsets the program at the end of 2012—the big banks are still opposed. They gorge on taxpayer funds and support, but they will not help these customers.

I would note this is not a problem with the small banks, the community banks that held their loans and work with their distressed customers in their community every day. This is a problem with the big banks that sold families' mortgages off in strips to investors far away, leaving the homeowner no one to talk to, no one who can make a decision about modifying the mortgage.

What is the homeowner supposed to do? Call an investor in Switzerland, in Japan? Ring up the hedge fund in New York that owns a strip of their mortgage and get them to all come together and agree on a workout? It is impossible.

When we allowed mortgage securitization, we created this hole, and we are obliged to fill it. Only a judge can cut through the nightmare of bureaucracy that a homeowner faces trying to sort through this mess. Securitized mortgages caused it, and there is only one practical way to clear it up, and that is the Durbin amendment.

I am very proud to have cosponsored this amendment, as well as the Helping Families Save their Homes in Bankruptcy Act, the bill on which this amendment is based. I thank my colleague from Illinois for his passionate and tireless work on this legislation. I share his belief that this is the most direct and effective way to mitigate the foreclosure crisis.

I also share Senator DURBIN's frustration that although he and others—Senator SCHUMER in particular—have worked tirelessly to negotiate in the interest of all parties, this powerful banking lobby has been greedy, stubborn, and unreasonable. It refuses to recognize the human problem that poor homeowners have when they have to try to reassemble a mortgage that got sold in strips around the world and try to get those people together to reach an agreement. It is asking ridiculous things of that family to expect them to handle that problem, and they have no other mechanism, except a court, which can settle it once, and quickly, for all.

I have been here only a short time, Madam President, but this is one of the most extreme examples I have seen of a special interest wielding its power for the special interest of a few against the general benefit of millions of homeowners and thousands of communities now being devastated by foreclosure.

Bear in mind that the big banks opposing this legislation can reset their own obligations in a receivership or bankruptcy, but what's fine for them is obviously too good for their long-suffering customers, who—uniquely—don't get the same rights for their home mortgage.

The scale of this is immense. Senator DURBIN's commonsense measure would help as many as 1.7 million American families stay in their homes and preserve $300 billion—nearly one-third of a trillion dollars—in home equity for the neighboring homeowners whose home values get knocked down when a bank will not negotiate with an owner and comes in and forecloses, hammers up the plywood over the windows, lets the lawn grow out, and often lets the property be looted. In my home State of Rhode Island alone, 6,600 homes and over $1.4 billion in home equity could be preserved.

Homeowners are up against an impossible situation. It was one that was created by the big banks and the investment world when they securitized these mortgages and spread them to the four winds. This is their only hope to redeem it, their only hope to have somebody sensible to talk to, and I urge my colleagues to support this amendment.

I thank the Chair, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CARPER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Without objection, it is so ordered.

Mr. CARPER. Mr. President, I rise with some reluctance today to oppose the amendment before us. The amendment is being offered to what I think is a very good bill. The provisions of the underlying bill are worthy of our full support. The notion that we are going to expand the ability of FHA and Rural Housing to modify loans is something I certainly support and I believe others should. The idea in the underlying legislation is that we should expand access to the HOPE for Homeowners Program, we should provide a safe harbor for servicers who otherwise would modify a loan. We have a situation, as the President may know, where we tried to encourage the modification of loans to help people who are in a bind to avoid foreclosure. We find out that among the parties who have to agree to the loan modification are the servicers, the people to whom we send mortgage payments. They have not been anxious to participate in modifying the mortgages because, first, they get no financial incentive upfront for doing the work and, second, if they do the work to modify the mortgage, they end up being sued by the investors who own these mortgage-backed securities around the world. That is not much incentive and, as a result, servicers have not done the work they need to do to help modifications take place.

Mr. President, I ask unanimous consent that my time count against the Republican time. I understand it has been cleared with our Republican friends.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. In any event, the underlying legislation addresses in a very satisfactory way an approach so that servicers will be more likely to participate in mortgage modifications.

Finally, the underlying legislation creates more enforcement tools for FHA to use to go after bad actors, bad lenders. That is all good stuff and we ought to support it, and I certainly do.

I am sorry to say I cannot support in its current form the so-called bankruptcy cram-down legislation offered by our friend from Illinois. A year or so ago we visited this issue. We had a vote on the floor about whether to bring a provision similar to this to the floor for debate. I did not vote to bring it to the floor for debate at that time. I was not sure if the issue was ripe and I didn't know that we were ready to do it.

My view has changed. I think it is an appropriate time and place for us to negotiate—to debate the issue of cram-down. I think it is unfortunate that we cannot offer an amendment, a second-degree amendment or perfecting amendments to the provision that has come to the floor. I understand things have been worked out by others here, maybe in our leadership, to bring the amendment to the floor without the opportunity to perfect it further. I think that is unfortunate, but it is what it is.

About a month or two ago I hosted, back in Delaware, a forum that was designed to introduce to the people of my State the most recent initiatives launched by the Obama administration to encourage the modification of home mortgages, to help people who are in danger of becoming in default and facing foreclosure of their homes. The administration has given us a couple of very good proposals. I think our earlier HOPE for Homeowners proposal that we adopted when I served on the Banking Committee last year was a very good proposal, but the problem was we couldn't get the servicers to cooperate and be part of it. I think we figured that out in the underlying bill today.

When I hosted my forum back in Delaware earlier this year, some of the participants were fearful of losing their homes, some were approaching foreclosure. They wanted to learn more about foreclosure. We had housing counselors there. It was a helpful forum for a lot of people.

One of the things I learned there was from one of the people who participated, a woman who is a bankruptcy lawyer. She came up to me and she said: You know, we are having a hard time in some cases getting financial institutions, the lenders, to take seriously the opportunity to modify mortgages. She said: I think they would take that opportunity more seriously if they knew at the end of the day, if they were not serious, they would face in a bankruptcy court the possibility that a bankruptcy judge will come in, lower interest rates, reduce principal and stretch out the time for repayment of these mortgages.

I thought she made a compelling case. I since then decided that maybe this is an issue we ought to bring to the floor. It does have value. This is the appropriate time. A lot of people are facing foreclosure, a lot of people are in foreclosures, and this could be a tool—not something that would be a first choice but maybe a last option. It could be the last option after whoever is the homeowner facing difficulty had gone through all the programs that are offered by the new administration and would then take advantage of whatever programs are offered by lenders—Countrywide and others.

The legislation before us today is an improvement over some earlier versions. There are a couple of problems I have with it. I want to mention those, if I could. One of the problems occurs when you have a situation where a person has asked a lender to modify a mortgage and the lender has agreed to do that and then in the next year or two the homeowner, who has actually gotten out of bankruptcy a better deal, turns around and sells their home at a profit. I believe the lender, having gone through the bankruptcy and the mark-down, if you will—that lender should be able to participate more fully than is envisioned in this underlying bill.

The House takes it a little differently. This amendment says the lender would appreciate, I think, maybe to the tune of 50 percent, 50–50 with respect to an appreciation in value following the bankruptcy. In the House they have a different approach. The first year the lender would get 90 percent of any appreciation, the second year 70 percent, third year 50 percent, and eventually phase out. I think that is a better approach.

I would like to have seen and encouraged that we consider more tightly constraining the period of years that would be covered; that is, from which mortgages would have been originated the number of years that might fall into this approach.

In the legislation before us, you can go all of the way back in time, whenever. There is no beginning date. The ending date is January of this year. And I think, whether it would happen to be a subprime mortgage, an Alt-A, almost any kind of mortgage would still be able to participate in a bankruptcy. That is a bit broad. At the very least, I would hope we would be able to come up with something that would say, we would end the period of eligibility maybe from 2002, 2003, to the end of 2007. That seems reasonable to me. We do not have that kind of constraint in this amendment.

If we could have fixed that provision, maybe moved the eligibility back from January 1 of this year to January 1 of a year ago, that would have certainly helped make it easier for me to support the amendment. The idea of giving the lender a better opportunity to participate in appreciation of the home that later on comes out of bankruptcy, a person comes out of bankruptcy and sells their home for a profit, I think the lender ought to be able to participate more fully than is envisioned here in this amendment.

I think it is unfortunate that we do not have a chance to perfect it further. I do not know that we will see this issue again. My hope is what the administration—the programs the administration has launched will have great effect, a lot of people will take advantage of them, that the mortgage modifications of the individual companies, the individual lenders will be more effective and be better utilized.

I hope the fixes we are providing for the HOPE for Homeowners Program, addressing some of the problems I have mentioned, I hope that helps too. If it does not, and we realize later on that there still needs to be this threat of a bankruptcy cram down at the end of the day, then let's revisit this issue. But I hope those of us who have maybe somewhat different views will have them be debated on the floor, and have an opportunity, if we are not fully comfortable with what comes to the floor, have an opportunity to amend and hopefully perfect it and make it better.

I am going to have to reluctantly oppose the amendment. I appreciate our friends from the other side yielding time on this issue for me.

I yield back.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION POLICY

Mr. ALEXANDER. Mr. President, I wish to make a few remarks about education, a subject that is important to virtually all of us.

When figuring out what to do about education, my suggestion to those in my party is that Republicans should ask, ''What would Lincoln do?''

During the first 16 months of his Presidency, Abraham Lincoln helped enact three of the most important and successful pieces of legislation in American history: the Homestead Act, the Morrill Acts that created the land-grant colleges and universities, and the Pacific Railroad Act.

What made these laws successful, according to Harvard Professor Bill Stuntz, in an April 6 article in The Weekly Standard, was that they ''did not depend on the complex judgments made by members of congress or government regulators. [They] were meant to confer opportunities, not to solve problems . . . the necessary elbow grease was supplied by the private citizens whose prospects Lincoln improved.''

These three laws helped American farmers create the world's most productive farmland and American universities produce the most educated workforce. The transcontinental railroad knitted together this sprawling Nation.

A later version of this same thinking produced the GI bill scholarships which followed veterans to the colleges of their choice at the end of World War II. Then came Pell grants and student loans which today follow two out of three students to the colleges of their choice.

Similarly $31 billion of Federal research money is handed out each year to universities. Almost all of it is peer reviewed and competitively granted, and not parceled out by legislators and regulators. All of this might be called the Lincoln approach to Federal Government involvement in education. Conferring opportunities.

Now, compare it to the command-and-control Rooseveltian model best exemplified by our kindergarten through the 12th grade system of education. In that system, students do not choose—they are told—where to go to school. Government money goes directly to institutions, not to students. Government and unions write rules handcuffing teachers and principals and other student leaders. And virtually no teacher is paid more for teaching well.

There is yet another approach. No Federal involvement at all. Some believe that. Leave education to the States or communities.

I suppose that over the last 30 years I have embraced all three of these points of view. Some may call that unprincipled, but I prefer to align myself with former Senator Everett Dirksen, who once said: ''I am a principled man, and flexibility is one of my principles.''

During my second year as Governor in 1980, I asked President Reagan to support what I called a grand swap, give the States all of kindergarten through the 12th grade, and the Federal Government would take all of Medicaid.

The President liked that. I liked it. But it did not go very far.

In 1984, I helped make Tennessee the first State to pay teachers more for teaching well. I encouraged school choice and created centers and chairs of excellence at universities. Despite this aggressive State action, I concluded at the end of my 8 years as Governor that K–12 education depended entirely upon parents, teachers, school leaders, and community. So I traveled to all 132 school districts in Tennessee, creating Better Schools Task Forces, and challenging them to create better schools.

As Education Secretary, I proposed America 2000, again emphasizing community responsibility for education, higher standards for States, and support for what we called then ''break the mold'' charter schools, and more choices for parents of low-income children.

Later on, I said we can do without a Department of Education—the Department I used to head—meaning that I thought an agency handing out scholarships to K–12 students, as well as college students, plus some effective advocacy was all we needed at the Federal level.

As a Senator, I reluctantly embraced No Child Left Behind, because it forces reporting on children who are indeed left behind, but have introduced legislation to empower States to try to do that reporting in their own way.

Putting it all together, I may not have been quite as inconsistent as I have accused myself of being.

No. 1, I believe the Federal Government should be involved in education, but I am for the Lincoln empowering model as opposed to the Rooseveltian command-and-control model.

No. 2, I believe that 95 percent of making K–12 education better depends on parents and teachers and school leaders. And, finally, while I believe it is virtually impossible for regulators and politicians in Washington to make schools better, I believe it is sometimes possible for Washington to help parents, teachers, school leaders, and communities make schools better.

So following that Lincolnian set of principles—conferring opportunities instead of making decisions—what exactly should the Federal Government do to empower parents and help them be better parents?

One, a Pell grant for kids. Give every middle- and low-income child $500 to spend after school at any State-approved education program. This would help fund music and art lessons, English lessons, other catchup and get-ahead lessons. It would pour billions into poorer school districts, programs encouraging public schools in those districts to get busy and attract students by offering the afterschool programs themselves.

A second thing would be a Federal tax system favoring parents with children. We had this during the 1950s in America. President George W. Bush did more to support this idea than most realize.

Next, perinatal care. Make sure that pregnant mothers receive care and find a medical home, a team of medical professionals that is responsible for coordinating all of the new baby's health care needs from before the pregnancy until 6 weeks after. That would be the real Head Start.

Nurses in homes. We could encourage nurses to visit homes to make sure every newly born child has a medical home. Remember, now, I am taking about what could the Federal Government be doing to help parents be better parents.

Home schooling. Our policy should be never to hinder home schooling, and to look for ways to help. Why should we punish parents who are doing their job well?

Professor Coleman at the University of Chicago used to say: School is for the purpose of helping parents do what the parents do not do as well.

We could help adults learn English. There are lines of new Americans outside federally funded programs in Tennessee to help adults learn English. Senator KENNEDY has told me the same is true in Massachusetts. Encouraging our common language is a Federal role, and if parents speak English better, the child is more likely to speak English better.

Finally in this list of ideas: worksite day care. With so many parents working outside the home, there is less time for the child. One solution is worksite day care near the place where the parent works. Take the child to work. This is usually a private sector solution, but as assistance for low-income parents could make sense.

To help teachers and school leaders be better, what could the Federal Government do? One thing would be to help fund higher standards and data collection. Those should be set by States or groups of States, not by those of us in Congress. But they should be set so teachers, parents, and students know what to expect.

Probably nothing is more important than paying good teachers more for teaching well. I especially admire the work the new Secretary of Education has done in this area in Chicago. I know the new Senator from Colorado and the Senator from Tennessee, Mr. CORKER, in their hometowns have done this.

Every child benefits from exceptional teaching. Now that we know how to relate student achievement to the skills of the teacher or the groups of teachers, we should pay teachers for their superior skills. That means expanding the Teacher's Incentive Fund, which already exists, to help local school districts reward outstanding teaching in many different ways.

As the late Albert Shanker, president of the large American Federation for Teachers, used to say, ''If you can have master plumbers, why not master teachers?''

We should encourage charter schools. That helps teachers because it liberates the teachers and school leaders to use their own good judgment to help the children assigned to them. I am encouraged that the new Secretary of Education has encouraged charter schools.

Teach for America helps to supply new raw talent to the classroom, and I think, even more important, forms an alumni corps of support for excellence in the public schools, once those young teachers go on to whatever else they plan to do.

Teachers' colleges. They need to be improved. One way to do it would be to award peer-reviewed, competitive research grants on the agendas most of them will not touch: how to give parents more choices, how to reward outstanding teaching, how to make charter schools successful, and how to help newly arrived children learn English.

UTeach is another idea formed at the University of Texas-Austin. The America COMPETES Act that we passed in a bipartisan way in 2007 carries that nationally. It funds scholarships at universities where good students in math and science will switch to teaching.

Summer academies. Senators REID and KENNEDY, a whole group of us, have helped to create summer academies for outstanding teachers of U.S. history, as well as the sciences. These are inexpensive and enriching and they do not intrude very much into State and local responsibility.

School leaders. The biggest bang for the buck that we can do from here, or that States could do, or that school districts could do, is training school leaders. Generally, our role could be to expand the Teacher Incentive Fund and the New Leaders for New Schools Program.

Our higher education system is molded upon the Lincolnian principles. It is also the best in the world. Our K–12 system is smothered by commands and controls from Government and the unions. It is a source of constant concern. Republicans should create proposals and policies that confer opportunities for parents, teachers, students, school leaders, and researchers, and stay away from programs that create command-and-control orders from politicians and regulators.

That is a lesson from our founder, Abraham Lincoln.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Mr. President, I ask unanimous consent to speak as in morning business and that the time not be charged to the Durbin amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING THE FALL OF SOUTH VIETNAM

Mr. WEBB. Mr. President, I have a resolution I have left at the desk which would honor the Vietnamese refugees who came to this country after the fall of South Vietnam. I would like to take a few minutes to discuss the importance of this day, April 30.

Today is a day that, for Vietnamese around the world, is as significant as the distinctions that are often made in other cultures between B.C. and A.D. Thirty-four years ago, on April 30, 1975, the Communist forces from North Vietnam finished their conquest of the south, and the struggling, war-torn country of South Vietnam ceased to exist. Many who fought on the Communist side and others who supported them believe that the motivation for pursuing this war was the unification of the country and independence from outside influence, and in many ways the position that they took, and the loss of 1.4 million Communist soldiers on the battlefield in pursuit of that position, is understandable. But it is just as understandable to recognize and honor the aspirations of the overwhelming majority of the people of South Vietnam who fought long and hard at a cost of 245,000 battlefield deaths for a government that, like our own here in the United States, allows true political and individual freedom.

Those aspirations fell to the wayside as North Vietnamese tanks entered Saigon in blatant violation of the 1973 Paris Peace accord and instituted a harsh, Stalinist system of government that was marked at the outset by cruel recriminations toward those who had resisted its takeover. And thus, for millions of Vietnamese around the world, April 30 is a reminder of the loss of everything, including their homes, their way of life, and their hopes for a prosperous and open future for the country that they loved.

Americans in general tend to avoid or ignore this day and the significance it has not only on the Vietnamese but also on our own history. But it is important for us to look back on that day and on the war itself, not in anger but in fairness, in a way that gives credit where credit is due. And it is also important, for all of the reasons that led many of us to support that war endeavor, that we commit ourselves to working together to build the right kind of dialogue with the present Government of Vietnam in order to help bring a better future for the Vietnamese people and a more stable strategic environment in east Asia as a whole.

Frankly, I believe this war still divides Americans in a way that they still feel but no longer openly discuss. I am not sure we can even agree on the facts, much less the rightness or wrongness of our policies, that caused us to commit our military to that battlefield, with the eventual loss of 58,000 dead and another 300,000 wounded. Was it right to go into Vietnam? Was it important? If you ask those in academia, the predictable answer, growing ever more predictable as the years cause us to summarize the war ever more briefly, is that it was a mistake. And yet here is a piece of data that should still cause all of us to think again. In August, 1972, 8 years after the Gulf of Tonkin incident that brought us full-bore into Vietnam, even at a time when the Nation had grown weary of bad strategies, after tens of thousands of combat deaths, and years of massive antiwar protests, a Harris Survey showed that 72 percent of Americans still believed that it was important that South Vietnam not fall into the hands of the Communists, with only 11 percent disagreeing.

Over the years, we have lost the reality of those concerns. Too often in today's discussions that examine the Vietnam war, we are overwhelmed by mythology. I hear it said quite often that this was a war between the United States and Vietnam. Nothing could be further from the truth, and nothing could be more offensive to the millions upon millions of Vietnamese who supported the South Vietnamese Government and its long-term goal of a stable democracy. Our attempt to help that government was no different than the manner in which we assisted South Korea when it was attacked after being divided from North Korea, or the motivation that caused us to support West Germany when the demarcation line at the end of World War II divided Germany between the Communist east and the free society in the West. We were not successful in that endeavor in Vietnam for a number of reasons. But it would be wrong to assume that this was an action by our country against the country of Vietnam, or that it was motivated by lesser ideals.

We hear a lot of dismissive talk about the domino theory and the supposedly unjustified warnings about what was going on in the rest of the region with respect to efforts that were backed by the Soviet Union and Communist China in the runup to our involvement. But these were valid concerns at the time. The region had seen a great deal of turmoil during and after World War II. Most of the European colonial powers had receded throughout Southeast Asia, largely because of the enormous costs of that war, leaving poverty, war damage and unstable governments behind. Japan had withdrawn from the territories it had invaded and occupied. Governmental systems throughout the region were in transition, many in chaos. The Communists had moved into power in China. Within a year North Korea invaded South Korea, and were joined on the battlefield by the Chinese. Indonesia endured an attempted coup, sponsored by the Chinese.

In fact, Lee Kuan Yew, the brilliant leader who created modern Singapore, has said many times that the American effort in Vietnam was a key contribution in slowing down communism's advance throughout the region, and allowing the other countries in the region to stabilize and prosper. The point, simply made, is that there was a great deal of strategic justification for what we attempted to do.

This brings us to April 1975. A North Vietnamese offensive had begun in the aftermath of a vote in this Congress to cut off supplemental funding to the Government of South Vietnam. This was combined with a massive refurbishment of the North Vietnamese army, with the assistance of China and the Soviet Union, that allowed the offensive to kick off at a time when our South Vietnamese allies were attempting to reorganize their positions in order to adapt to the reality that they were going to get markedly less funding in terms of vital supplies such as ammunition and parts for their American-made weapon systems, as well as medical supplies.

The events following the fall of Saigon on April 30, 1975, have never really been given the proper attention, probably because proper attention would embarrass so many people who had

downplayed the dangers of a Communist takeover. A gruesome holocaust took place in Cambodia, the likes of which had not been seen since World War II. Two million Vietnamese fled their country—usually by boat—with untold thousands losing their lives in the process, and with hundreds of thousands of others following in later years. This was the first such Diaspora in Vietnam's long and frequently tragic history. Inside Vietnam a million of the South's best young leaders were sent to reeducation camps, where 240,000 stayed for longer than four years. More than 50,000 perished while imprisoned, and others remained captives for as long as 18 years. An apartheid system was put into place that punished those who had been loyal to the U.S., as well as their families, in matters of education, employment and housing. The Soviet Union made Vietnam a client state until its own demise, pumping billions of dollars into the country and keeping extensive naval and air bases at Cam Ranh Bay.

As a consequence of that bitter day in April, 1975 there are now more than 2 million Americans of Vietnamese descent. We are better off as a nation for their contributions to our society, at every level. It was not always easy for these refugees when they arrived during the late 1970s, to a country that had been so torn apart by the war itself. But they won the rest of us over with their perseverance, their reverence for education, and their dedication to their families. Our gain, at least in the short term, was Vietnam's loss.

It is important that Americans understand this journey, because those who lived it deserve a fair place at the table as we continue to work toward better relations in the Vietnam of today. Not to undertake a new round of recriminations; not to relive the bitterness of the past; but to build a proper bridge between our country and Vietnam, for the good of both countries, for the health East Asia, and for the benefit of all the people inside today's Vietnam.

With respect to the region, Vietnam remains one of the most important countries in terms of the manner in which the United States should be preserving all of its legitimate interests on the East Asian mainland. With the steady accretion of Chinese influence to the north, the expansion of India to the southwest, and the evolution of Muslim influence in Southeast Asia in countries such as Indonesia, Malaysia and the southern reaches of the Philippines, Vietnam, along with Thailand and Singapore, are absolutely vital to our posture as an Asian nation.

With respect to the Hanoi Government, with which I have had a long and not always pleasant relationship since 1991 when I first returned to Vietnam, I have a great appreciation for the very significant strides they have made since those early days. The relationships that are now evolving between Vietnam and the United States are healthy. In the long term, I believe they are going to be successful. And even though I remain proud of my Marine Corps service in that war so many years ago, I welcome them. When I first returned to Vietnam in 1991 I went to Easter Mass at the Hanoi cathedral. There were perhaps 20 people in the church, all of them elderly. Last Christmas I attended Christmas Mass and there were at least 2,000 people in the church, overflowing into the courtyard. People can argue around the edges—we can have our political debates—but this is progress. We need to reward those strides with reciprocal behavior, even if we remain at odds on other issues. There is a lot to be proud of in terms of the transformations that have been going on in Vietnam. Vietnam is growing. It is growing economically. It is growing politically. It is reaching out to the rest of the world. It is acting responsibly in the international arena. We have much to do with that success, and we have much work to do. We have much work to do in terms of encouraging more openness and greater political freedom. But we are on a pathway where, with the right kind of continued dialogue, I believe all of that is going to occur.

And so I would like to reemphasize that the best legacy for those of us who care deeply about this issue, and who remember all the tragedies of the war, will be for us to see Vietnam, the Vietnam of today, as a strategic and commercial partner and also as a vibrant, open society whose government reflects the strength of the culture itself, a strength that has been demonstrated over and over again by the Vietnamese who have come to this country and who, I am proud to say, are now Americans.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent to speak for up to 15 minutes on the Republican time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I strongly support Senator DURBIN's amendment. It will facilitate and promote negotiation and restructuring of mortgage debt on primary residences, which is a sensible and preferable alternative to foreclosure and all the negative consequences that process involves. I cosponsored earlier versions of this measure introduced in the last Congress by Senator DURBIN as well as this one. I am proud to cosponsor the current amendment.

Including this provision in the housing bill is absolutely critical to helping an estimated 1.7 million homeowners facing foreclosure to obtain modifications of their loans so they can return to making payments and stay in their homes. This, in turn, would contribute powerfully to stabilizing the housing market and the entire financial sector, allowing our economy to recover.

For nearly 2 years now we have seen a devastating wave of home mortgage foreclosures all across America. Foreclosure exacts a painful toll on borrowers who cannot keep up with their payments. Let's not avoid the harsh realities: foreclosure means families—many oftentimes with young children—are forced out of their homes. It is a wrenching and emotionally devastating process.

But we also need to appreciate that the broader economic consequences of all of these foreclosures are overwhelmingly negative. The lender still loses money. The value of houses in the surrounding neighborhoods declines further. So-called toxic assets held by financial institutions and investors become even more toxic. The financial system and the broader economy suffer further damage. This is totally counterproductive, as we have seen vividly over the last year. It simply makes no sense to continue down this failed path of massive home mortgage foreclosures.

The Durbin amendment offers a far more promising and productive approach. Keep in mind that ''foreclosure'' is a legal shorthand for a process that cuts off or extinguishes the ability of a borrower to pay debt and remain in the home. It literally, as the word is used, forecloses any other options. The Durbin amendment, by contrast, encourages debtors and creditors to seek and negotiate sensible, workable, and economically feasible options or alternatives. What Senator DURBIN is proposing very faithfully applies the hard lessons learned as borrowers, lenders, and our Nation worked their way out of the agricultural credit crisis of the 1980s.

There are a lot of similarities between the farm crisis in the 1980s and the home mortgage and foreclosure crisis of today. In both instances, the value of the underlying assets—farmland in one case, houses in another—rose very steeply. In both cases, debts secured by those underlying assets rose very rapidly also. In both situations income available to pay off debt fell—in the farm crisis because of lower commodity prices, in the housing crisis because of unemployment and lower wages and salaries. In both instances the asset bubble burst. It was not only a matter of being unable to make payments; the asset values could no longer support the loan. With many farms, as now with many houses, the borrower owes much more than the real estate is mortgaged for.

So for a while in the farm crisis, both borrowers and lenders tried to ignore and deny what was totally an unsustainable situation. Eventually,

some lenders relented and started working out new loan terms that would reschedule payments, modify interest rates, and, in some cases, write down the debt a little bit. However, not all lenders would engage in that type of negotiation. For whatever reason, they did not want to recognize the economic reality: that not all of the debt could be repaid and that there was not enough collateral value left to pay off the loan, even if they went through foreclosure.

So what happened is, Congress had to step in and bring a dose of reality to resolving the farm debt. It did so by enacting chapter 12 to the Bankruptcy Code in 1986. I was here, a member of the Agriculture Committee at that time, working very diligently in trying to get through this farm credit crisis. But when we did that, Congress gave to family farms and ranches the debt restructuring remedy that had been available to other business enterprises. Chapter 12 bankruptcy permits the courts—permits the court—to modify loans to family farmers, including those secured by a principal residence.

Professor Neil Harl of Iowa State University, one of the most respected agricultural economists in the Nation, conducted authoritative studies of the impacts of chapter 12 bankruptcy. One of the more significant findings by Professor Harl was that some 84 percent of the original filers for chapter 12 bankruptcy were still farming or owning agricultural land 7 years later. So this was an astonishingly successful outcome, exceeding the expectations of even the most enthusiastic supporters of chapter 12 bankruptcy legislation. Professor Harl also concluded that chapter 12 provisions did not—did not—have a significant effect on interest rates. Again, this was contrary to the dire predictions by many lenders at that time—the same dire predictions that we are hearing from lenders today.

As Professor Harl pointed out, both in the 1980s during the agricultural sector, and in the 2007–2008 housing sector, the losses have already occurred because the borrowers who received relief would otherwise have been unable to repay their loan. So, again, we heard all of these dire predictions of why we can't let the bankruptcy court come in and do something other than foreclosure—to modify, to write down the debt a little bit, stretch out the payment times. What we did for many farmers at that time—they may have had high-interest loans for 7 years, 10 years. What we did, the courts came in, reduced the interest rates and strung out the payments for 20 years, 30 years. That is why so many years later farmers were still farming because they knew the underlying asset was still valuable. It was still productive. They just had to get through a bad rough spot. So there are a lot of farmers today still very much engaged in agriculture or ranching. That would not be so today had we not enacted that chapter 12 for agriculture in the mid-1980s.

So the provisions of the Durbin amendment give powerful incentives to financial institutions to work constructively with those in financial difficulty. Indeed, by giving the bankruptcy judge authority to force modification to mortgages on primary residences, as is the case with other assets, there is a real incentive to come to terms. I have never understood why a bankruptcy judge can force modifications to other assets but not on the primary residence. Well, we had the same situation in the 1980s, and we extended it to farms and, as I said, as Professor Harl showed, the rest is history. It succeeded beyond anyone's wildest expectations.

By giving this authority, again, to the bankruptcy judges, as I said, there is an incentive for both the financial institution and the borrower to come to some terms. This is very helpful for a person in difficulty, and it is very often in the interests of the owner of the mortgage, though it admittedly is not always in the interests of the mortgage servicer. We want to give relief to homeowners facing foreclosure not just for their benefit but for our benefit—the benefit of our economy.

So I urge my colleagues to support the Durbin amendment. Again, as we saw during the chapter 12 bankruptcy proceedings during the farm crisis in the 1980s, these provisions will allow many people to retain their homes and to weather this terrible economic downturn. Generally speaking, lenders will not lose any money they would not already stand to lose if they were to force foreclosure.

As I said, I believe there is a very correct and almost similar parallel to what we did in the 1980s with farms. People who are in financial difficulty today because of the downturn in the economy are going to be productive workers in the future. Why force them out of their homes when a modification such as stretching out payments, reduction of interest rates, could keep them in their homes, keep up the value of the surrounding property around them so they don't get in this downward spiral in their communities. To me, this makes eminently good sense.

Also, the positive consequences for our economy would be profound. An estimated 1.7 million families would be able to avoid foreclosure and keep their homes. The housing crisis, as I said, would receive much needed support. The housing market would be able to stabilize. All of this would be a much needed tonic for our economy.

So I commend Senator DURBIN for always being on the leading edge, as he has been in the past. This is an amendment that I don't know why it isn't just accepted. It should be adopted overwhelmingly. As I said, we have a precedent for it. We know what happened in the past, and we know the same thing applies today.

So I urge my colleagues to wholeheartedly support the Durbin amendment for individual homeowners, for communities, but for our overall economy.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I wish to thank my colleague from Iowa for his kind and supportive statement about this pending amendment.

For the information of my colleagues, I have spoken to the Republican cloakroom. I believe this has been cleared, and if it hasn't, I will subject it to further modification. We have some 30 minutes remaining in the debate on this amendment that is pending, and it is to be evenly divided, 15 minutes to each side. So for the information of my colleagues, we expect the vote to be in the neighborhood, in the range of 2:45, if they want to make their plans accordingly, unless the Republican side yields back the 15 minutes they have remaining, which is their right, but they are certainly not compelled to do it. So I am not asking for a consent. I hope I am just explaining what the current consent order will lead us to.

Mr. President, I wish to show America what this debate is all about. It is about this: This picture was taken on Capitol Hill. Two adjoining homes on Capitol Hill, No. 822 on Capitol Hill, a neatly kept home—flower box, some work with some shrubbery here, nicely painted, obviously a lot of pride of ownership. Look next door. What do we find? A foreclosed property on Capitol Hill. This person is making his mortgage payment every month faithfully. This person is foreclosed on. The property is in the hands of a bank. This property is deteriorating. As it deteriorates, so does the value of the good-looking home right next door.

That is not an unusual story. It is a story that will be repeated 8 million times over the next several years because that is what Moody's estimates will be the number of mortgages foreclosed upon in America if we do nothing—8 million mortgage foreclosures. Out of all the home mortgages in America, it means that one out of six will be foreclosed upon.

This is an American tragedy coming to your neighborhood, coming to your home, coming to what may be the most important asset you have on Earth. It does not have to happen. We can do things now to make a difference. We have waited patiently for the banking industry to show leadership on this issue for years. They have failed. There has been one excuse after another why they cannot step in and help people renegotiate their mortgages.

Foreclosure is not a day at the beach for a bank. It costs them up to $50,000, sometimes more. They end up owning property, which is not what most bankers go to business school to learn how to do, and the property deteriorates, the value deteriorates, and they are stuck with it.

We have said to them: Let's find a way out of this that is reasonable.

Let's give to those facing mortgage foreclosure a last chance in bankruptcy court to have the judge try to adjust the value of the principal of the mortgage no lower than the fair market value of the home—that is the best that any bank could ever hope for, if they could ever sell this property—no lower than the fair market value of the home and an interest rate that is competitive with market rates. If the person in bankruptcy has enough income to make the payment, give them that second chance. The banks say: No, never, even though that kind of a power in bankruptcy court is available for every other piece of real estate you own—the farms Senator HARKIN of Iowa spoke to, ranches, vacation condos. It does not apply to a person's home. Why? Why wouldn't we apply it to a person's home? That is what the Durbin amendment does.

We said to our friends in the banking community: We are going to give you the last word, and here is what we are going to tell you: Anybody who wants to go to bankruptcy court to have their mortgage rewritten by the bankruptcy court first has to go back to the bank where they have their mortgage at least 45 days in advance of filing bankruptcy and put all of their documentation on the table as to their income and their net worth. If the bank then makes them an offer of a mortgage that has a mortgage-to-income ratio of 31 percent, which is the standard we are using now, if the bank makes that offer, whether the borrower takes it or not, the bank is protected, the person can't go to bankruptcy court. The bank has the last word in terms of whether anyone can even raise this issue in bankruptcy.

I have been working on this for 2 years. By Senate standards, that is a heartbeat. In this place, you better get ready to hunker down and fight for months and years at a time if it is an important issue, and I still am. But for 2 years, we have been working with the banks trying to come up with a reasonable way to avoid this tragedy in neighborhoods across America. They are the ones who came up with the 45 days before filing for bankruptcy. They wanted us to restrict it so it is not in the future, it only applies to existing mortgages. We said OK. They wanted to put a limitation on the value of the home, $729,000; that is the most you can consider to refinance. We said OK. They wanted to make sure a person had been delinquent at least 60 days before they could even consider bankruptcy. We said OK. We did all of these things because the banking industry said that way people will not be doing irresponsible things and taking advantage. We did them all. We made all these concessions. I do not agree with some of them, but that is the nature of compromise, that is the nature of the legislative process.

What happened at the end of the day after we made all these concessions? I will tell you what happened. The bankers got up and walked out. That is right. The American Banking Association, the community bankers, the major banks, such as JPMorgan Chase, Wells Fargo, Bank of America, and the credit unions walked out. They want nothing. They want no change. Only Citigroup said: We will stick with you; we think it is reasonable. They are the only ones.

If you ask them why they are opposing this effort to try to renegotiate a mortgage to keep a family in their home to avoid this mess, they say: Senator, you don't understand. It is about the sanctity of the mortgage contract.

Really? We know how some of these mortgages came to be. They came to be as a result of at least misleading the borrowers, if not outright fraud.

They used to call these mortgages no-doc mortgages. Do you know what that means? It means they were giving mortgages to people without any proof of income or net worth. If you dialed that 800 number on the television screen, a fellow would show up, set up your closing in 48 hours, and get it done. Just keep signing those papers, incidentally, until you get to the bottom of the pile and everything is taken care of. Six months, 1 year, 2 years later, that mortgage exploded in the faces of these homeowners.

Then there were others. They didn't get suckered into these subprime mortgages; they were folks just making their payments, everything was fine. Then the bottom fell out of the real estate market.

What is your home worth today? I can tell you what it is in Springfield, IL, my home I have been in for 30 years. The value of my home is down at least 20 percent. Did I miss a mortgage payment? No, but it is the state of the real estate market. Lucky for me and my wife, we paid down enough on our mortgage so it is no big problem. For some people, they went underwater. The value of the home is lower than the principal of the mortgage they were paying off. So their credit rating disintegrated as a result of that. The value of the home here, well kept and well painted, goes down because of a foreclosed home next door, and the credit rating of this homeowner deteriorates and disintegrates to the point where they cannot refinance their home. That is the reality. That is the catch-22.

The banks are arguing the sanctity of the mortgage contract. I have news for them. The bankruptcy court is all about looking at contracts. That is what they do anyway. When we reformed the Bankruptcy Code a few years ago, I didn't hear any argument about the sanctity of the contract when we changed the rules of the game. In that case, the financial institutions liked changing the rules, liked changing the contract. Now they are for the sanctity of the contract.

One other argument I think takes the cake: Senator, you don't understand the moral hazard here. People have to be held responsible for their wrongdoing. If you make a mistake, darn it, you have to pay the price. That is what America is all about.

Really, Mr. Banker on Wall Street, that is what America is all about? What price did Wall Street pay for their miserable decisions creating rotten portfolios, destroying the credit of America and its businesses? Oh, they paid a pretty heavy price—hundreds of billions of dollars of taxpayers' money sent to them to bail them out, to put them back in business, even to fund executive bonuses for those guilty of mismanagement. Moral hazard? How can they argue that with a straight face? They do.

Let me show you what this means in some of the States across the United States if the Durbin amendment would pass.

Take a look at the State of Florida. This State is really hard hit; 206,000 homes would be saved from foreclosure with the Durbin amendment—206,000 in the State of Florida. For the rest of the homeowners in the State, $36 billion in value in their homes would be protected because we saved these homes.

Take a look at the State of Ohio. Almost 44,000 homes will be saved by the Durbin amendment; $1.5 billion in real estate values saved for the people who live next door and on the same block.

The State of Pennsylvania: 37,000 homes saved; $3.3 billion in real estate value protected.

The State of Maine, a small State but almost 5,000 homeowners would not face foreclosure because of the Durbin amendment, and $104 million in value would be protected for homeowners across the State of Maine.

In the State of Missouri, 22,000 homes saved; $993 million in value.

I want to show a chart from the city of Chicago, which I am proud to represent. It looks as if it has the measles, doesn't it? This chart shows the foreclosures in 2008, the filings in the city of Chicago. Have you ever flown into Midway Airport and looked down at the little houses, the little blond, brick bungalows? They have been around at least since World War II. Good, hard-working families are in those homes, starter homes for some, above-ground pools in the backyard, nice little flowers planted in the front yard, no trash out in the streets. These people are, by and large, ethnic folks, immigrant folks. They value that home. It is the best thing they have going for them. In that ZIP Code right around Midway Airport, there is not a single block in that ZIP Code that does not have a foreclosed home. Not one. And you tell me what that means to the folks living next door. I know what it means. It means that the value of their home just went down, and if the foreclosed home is not watched carefully, even worse things can occur.

Here is what it comes down to. This is our chance to stand up for the folks across America who send us here to be their voice. They are not lucky enough

to have the American Bankers Association as their lobby. They are not lucky enough to have the community bankers as their lobby. They are not lucky enough to have the credit unions as their lobby. What we are talking about here are people who do not have any paid lobbyists. What they are counting on is Senators in this Chamber who will stand up for them.

The bankers don't want this. They hate the Durbin amendment like the devil hates holy water. That was an old saying, which I particularly like, from Dale Bumpers, who served from the State of Arkansas. They hate this amendment so much, so they negotiated for weeks and at the end of it pulled the plug—we are going to walk away. We are going to tell all of our friends, all of our loyal friends to vote no.

I hope the homeowners across America have more friends here than the American Bankers Association. We are going to get a test vote in a few minutes to find out. I need 60 votes to win. That is not easy, I know it. I don't know how many, if any, votes will come from the other side of the aisle. I have spoken to a few over there, even some on this side of the aisle, one who has spoken out against this proposal, and that is his right to do. To me, at the end of the day, this is a real test as to where we are going in this country.

Next up after mortgages is credit cards. Next week, the bankers can come in and see how much might and power they have in the Senate when it comes to credit card reform.

The question we are going to face is whether this Senate is going to listen to the families facing foreclosure, the families facing job loss and bills they cannot pay or whether they are going to listen to the American Bankers Association, which has folded its arms and walked out of the room. I hope we have the courage to stand up to them. I hope this is the beginning of a new day in the Senate, a new dialog in the Senate that says to bankers across America: Your business-as-usual has put us in a terrible mess, and we are not going to allow that to continue. We want America to be strong, but if it is going to be strong, you should be respectful, Mr. Banker, of the people who live in the communities where your banks are located. You should be respectful of those hard-working families who are doing their best to make ends meet in the toughest economic recession they have ever seen. You should be respectful of the people you want to sign up for checking and savings accounts and make sure they have decent neighborhoods to live in. Show a little bit of loyalty to this great Nation instead of just to your bottom line when it comes to profitability. Take a little bit of consideration of what it takes to make America strong because when this country is strong, when families can stay in their homes, take pride in their homes, and our communities are better, guess what. You are going to do better as a banker. That is what will happen at the end of the day.

When I offered this amendment last year, they said: Not a big problem; there are only 2 million foreclosures coming up. They were wrong. It turned out to be 8 million. And if the bankers prevail today and we cannot get something through conference committee to deal with this issue, I will be back. I am not going to quit on this issue. Sadly, the next time I get up to speak, whenever that might be, if we are not successful today, it may not be 8 million, it may be 10 million or 12 million.

At some point, the Senators in this Chamber will decide that the bankers should not write the agenda for the Senate. At some point, the people in this Chamber will decide that the people we represent are not the folks working in the big banks but the folks struggling to make a living and struggling to keep a decent home. That is the test.

I hope my colleagues will join me in adopting the Durbin amendment.

Mr. President, I ask unanimous consent that at 2:45 p.m. today, the Senate proceed to vote in relation to Durbin amendment No. 1014 and that any provisions of a previous order relating to this amendment remain in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, 1.7 million is the number of families that we will either help stay in their homes or allow to lose their homes and be thrown on to the street.

Tomorrow the Senate will have the opportunity to vote for an amendment to the Helping Families Save Their Homes Act that would enable 1.7 million families to avoid foreclosure.

My amendment would make a small change to the bankruptcy code to give these families a little bit of leverage as they work with their lenders to create a modified mortgage that they can afford.

When we can avoid foreclosures and families can stay in their homes, everyone wins—the families, their neighbors, their lenders, and the government. We can save 1.7 million homes with one vote.

I have come to the floor each day this week to talk about the scale of the problem and what we believe we should do about it, in very general terms.

Now I would like to get specific.

Let me be clear: this is a very different amendment to the bankruptcy code than my colleagues have seen before.

This amendment would integrate assistance in bankruptcy to the two primary foreclosure prevention efforts already underway: the Obama administration's Homeowner Assistance and Stability Plan and the congressionally created Hope for Homeowners refinancing program which the other title of this bill will greatly improve.

Our objective is to keep as many families in their homes as we can. Ideally none of these families would have to go through the painful process of a chapter 13 bankruptcy.

So this amendment would help only troubled homeowners who could not find other assistance outside of bankruptcy first.

Let me put it another way: mortgage servicers would be given full veto power over which of their borrowers could go to bankruptcy—they would be given the keys to the courthouse door.

All a servicer would have to do to block a borrower from going to bankruptcy for a mortgage modification would be to offer the borrower a modification that conforms to the standards of the Homeowner Affordability and Stability Plan or Hope for Homeowners—regardless of whether the borrower accepts the offer or not.

For banks and credit unions that aggressively offer modifications to borrowers who are in trouble, the total number of their borrowers who will be eligible for bankruptcy assistance will be exactly zero.

Specifically if a servicer offers a loan modification that reduces the borrower's mortgage debt-to-income ratio to 31 percent—the same as the Housing Affordability and Stability Plan—or if a servicer offers Hope for Homeowners refinancing, then that borrower could not run to a judge looking for a better deal through a cramdown. For those borrowers that the servicer chooses not to modify voluntarily and that must file for bankruptcy, half of any cramdown would be returned to the servicer if the borrower resells the home while still in bankruptcy.

For these borrowers that the servicer chooses not to help, the courts would be constrained as follows: The judge could only reduce the loan principal to fair market value, which is much more than the lender would collect if the home were to be sold in foreclosure. The judge could only reduce the interest rate to the conventional rate plus a reasonable premium for risk, which at the moment would equal around 6.5 percent to 7 percent.

And the judge could only lengthen the term to the longer of 40 years, reduced by the period for which the mortgage has been outstanding or the remaining term of the mortgage.

There are many further restrictions. Loans originated after 2008 are not eligible for bankruptcy assistance.

Loans that are larger than the largest conforming loan limit are not eligible for bankruptcy assistance. Loans that are not 60 days delinquent are not eligible for bankruptcy assistance. Loans that are not in foreclosure are not eligible for bankruptcy. And the whole amendment would sunset at the end of 2012 when the Housing Affordability and Stability Plan expires.

The banks hold the keys to the courthouse. And, even those borrowers the banks refuse to help can only receive assistance that still makes the banks far more money than the only other alternative: foreclosure.

Yet even with all of these restrictions, Mark Zandi from Moody's Economy.com estimates that this change

would save 1.7 million families from foreclosure. Why? Because for most lenders, the Obama administration's foreclosure prevention plan is voluntary. This change to the bankruptcy code would encourage lenders to participate, because offering these modifications allows lenders to effectively veto a modification in bankruptcy. That is a large part of why the President supports this provision, and why he included it as a key element in his plan.

This amendment would prevent foreclosures, which would help us find the bottom in the housing market, which would help the housing markets turn around more quickly, which would help the entire economy start moving again. Perhaps best of all, this amendment wouldn't cost the taxpayers a penny.

Even though this new proposal is airtight in protecting lenders interests, the ideologues in the mortgage industry—outfits like the Mortgage Bankers Association, the Financial Services Roundtable, the American Bankers Association, the Independent Community Bankers Association, and the National Association of Federal Credit Unions—still oppose providing this help to troubled homeowners and the economy at large.

They continue to regurgitate the same tired talking points that have been refuted over and again by the facts.

They seem to repeat the same six myths. Myth No. 1: Allowing troubled homeowners to receive mortgage assistance in bankruptcy will lead to higher borrowing costs for future borrowers. Reality: Although the Mortgage Bankers Association has claimed in front of the Senate Judiciary Committee that ''if this legislation goes through, we will be putting a permanent tax on everybody that buys a house going forward of $295 per month,'' there are several reasons why this argument makes no sense.

First, future borrowers aren't eligible for this bankruptcy assistance, so there is no reason why future borrowers should have to pay more to compensate lenders for a risk that doesn't exist.

Second, only borrowers for which foreclosure is the only other alternative are eligible for this bankruptcy assistance. Foreclosures almost always cost banks more than loan modifications that keep families paying each month. No extra costs are being borne by the banks that they could justify passing on to other borrowers.

Third, a study by Adam Levitin of the Georgetown Law School proves definitively that the availability of bankruptcy assistance to some borrowers in the past led to no increase in borrowing costs for others.

There is no reason to think that the same logic wouldn't apply in today's market that supports record low interest rates.

Myth No. 2: Changing the bankruptcy code will cause uncertainty in the market. Reality: Although the American Bankers Association asserts that ''mortgage cramdowns would add significant risk and uncertainty to mortgage lending,'' it is in fact the rapidly rising foreclosure rate that is adding risk and uncertainty to mortgage lending.

If potential homeowners think housing prices will continue to fall they will be unlikely to buy a home.

Aggressively preventing foreclosures will keep unnecessary supply off of the market, which will stabilize prices and encourage buyers to return to the market.

Since changing the bankruptcy code would save 1.7 million homes from foreclosure, the Durbin amendment would return a sense certainty to mortgage lending, not undermine it.

Some of the loudest opponents of my amendment were the chief contributors to the most uncertainty in the credit markets since the Great Depression. They have no credibility to tell us what the markets may or may not judge to create uncertainty.

Myth No. 3: Bankruptcy judges shouldn't be able to break the sanctity of the contract. Reality: The Chamber of Commerce argues that ''Cram down provisions would improperly expand the bankruptcy code by granting new powers to bankruptcy judges to modify the terms of existing, legitimate mortgage contracts.''

Legitimate mortgage contracts? What is so legitimate about no-doc, interest only, negative amortizing loans that had almost no chance to succeed from the day they are underwritten?

The concept of bankruptcy is enshrined in the Constitution, and bankruptcy has always been a venue in which contracts are restructured.

The Chamber and the banking industry had no problem with applying the sweeping 2005 bankruptcy code changes to all contracts past, present, and future when those changes benefitted businesses. They have no standing to now argue that because of the sanctity of the contract the bankruptcy laws should not be changed.

Myth No. 4: Allowing borrowers to modify mortgages in bankruptcy would shield borrowers from the consequences of their poor decisions to buy houses they could not afford, thereby creating a moral hazard. Reality: The industry that claims we should worry about moral hazard for borrowers is the same industry that helped create the greatest economic crisis since the Great Depression.

Bankruptcy is a painful process for the borrower, not one that is taken lightly. The intent of the legislation is to create the necessary incentives for more modifications to take place outside of bankruptcy.

And what about the families who have done everything right but have the misfortune of living next door to a foreclosure? If we save families from foreclosure we help their neighbors too. There's no moral hazard in that.

My amendment would save the neighbors of prevented foreclosures over $300 billion in preserved home equity. I will talk much more about that when I return to the floor tomorrow.

Finally, for many borrowers the problem isn't the home itself, but rather the high cost loan they are trapped in. Making the mortgage more affordable will make the home affordable for many families.

Myth No. 5: Restricting this amendment to only subprime and exotic loans is better policy than providing this option to borrowers with all types of loans. Reality: Although the National Association of Federal Credit Unions—which is the smaller of the two credit union associations—continues to argue that we should allow ''bankruptcy modification [to] apply to only to subprime or Alt-A (or nontraditional) mortgage loans,'' I disagree.

Last year I thought that this might be a reasonable compromise. But the foreclosure crisis has expanded far beyond subprime loans. The fastest-growing foreclosure rate by loan type is the traditional prime loan—once considered safe.

We are no longer just trying to solve for bad mortgage underwriting. We're trying to turn around the entire economy, and to do that we have to stabilize the housing markets.

Finally, how would we explain to our constituents that we're providing special assistance to borrowers who took out a riskier type of loan, but the families with a standard, conservative loan who may need a bit of help are out of luck?

Myth No. 6: Because community banks didn't create this crisis, it would be better policy to carve out their borrowers from having the option of bankruptcy assistance. Reality: Look at this picture again. If a community bank really cares about the community it serves, why should this foreclosure be allowed to take place just because the borrower took out a loan with a community bank rather than a big national bank?

Does that matter to the family who lost their home? Does that matter to the family living next door?

These banking associations have generated many myths of terror and destruction that this amendment would create, but the legislative language speaks for itself. And it refutes each of these myths.

Mr. President, 1.7 million families can be saved from foreclosure.

This is the Senate's chance to finally address the heart of our economic crisis, with no bailout money involved.

We may not have a better chance to help turn this crisis around.

Today the Senate will vote on my amendment to the housing bill that would give 1.7 million families a chance to save their homes.

I spoke earlier this week on the floor about the crushing impact to the broader economy that the foreclosure crisis has had.

Mortgages were bundled into mortgage-backed securities, which were sliced and diced into ''synthetic collateralized debt obligations'' and similar products, which were then sold to unsuspecting investors all over the world.

For a while there, they sold as if they were gold. Well, they are pretty tarnished now. They are now known as ''toxic assets.''

But I urge my colleagues not to forget that underlying these exotic ''toxic assets'' are things that we understand far more personally.

At the root of the crisis is the home. Mr. President, 8.1 million of them may be lost, according to Credit Suisse. My amendment will help save 1.7 million of them.

Also at the root of this crisis is the damage to the homeowners who live around these foreclosures, the neighbors who have made every mortgage payment on time. They stand to lose over $300 billion more, unless we pass my amendment.

I want to emphasize this point for a moment. There are millions of families all over America that have done everything right—they bought only as much house as they could afford, and they have made every mortgage payment on time.

Look at this picture. This house is well-kept, and appears to be the cherished home of a family that has acted responsibly. But this house next door, you can see what this house looks like.

Clearly, the well-kept home is worth much less than it would be if it were next to another well-kept home instead of this boarded-up eyesore.

Situations like this can be seen in each and every state that my colleagues and I represent. Families are in trouble, and their neighbors are suffering along with them.

By voting for my amendment we can save 1.7 million of these troubled families from foreclosure and can save their neighbors over $300 billion in home equity that would otherwise be lost.

In Florida, for example, we estimate that over 200,000 more families will lose their homes in the next few years if we don't pass my amendment.

Families like Derek and Kellyanne Baehr. As reported in local papers, Derek has been diagnosed with a rare neurological disorder that will eventually require him to use a wheelchair.

The couple has lived in their modest, single-story stucco home for four years, and they are now struggling to pay their mortgage.

After months of trying to work with their lender, they finally received a slight reduction in their interest rate, but ''it was like putting a Band-Aid on cancer,'' Derek said.

''We can't continue to go on this way,'' said Kellyanne. ''I cry about every day.''

If my amendment were to become law, this family's lender probably would have offered more than a ''Band-Aid on cancer.'' The lender likely would have offered a modification that would have kept the Baehrs in their home and paying their mortgage.

And, certainly, avoiding foreclosure would be a better result for both the Baehr's and the lender.

The neighbors who live around families who are kicked out on to the street—like the Baehrs may soon be—typically see the value of their homes—their most valuable asset—take a nosedive.

In Florida, neighbors of families that lose their homes will watch more than $36 billion of their assets evaporate unless we pass my amendment.

In Ohio, we estimate that nearly 44,000 more families will lose their homes in the next few years if we don't pass my amendment.

Some time ago I met the Glickens, a husband and wife from Ohio who were persuaded by a mortgage broker to commit to a mortgage that seemed fine at the start.

Then, the adjustable interest rates kicked in. They soon were being asked to pay 60 percent more than the original payments, and they just couldn't keep up.

Families like the Glickens are supposed to reach out to their lender to figure out how to modify the mortgage so that it is more affordable and so that foreclosure can be avoided.

Avoiding foreclosure is better for the homeowner and the bank, right?

Get this: the Glickens' lender charged them $425 to apply for a loan modification . . . and then turned them down anyway.

The Glickens needed a bit more leverage to negotiate with their lender, leverage that the threat of bankruptcy assistance would provide.

In Ohio, neighbors of families that lose their homes will lose more than $1.5 billion of their assets unless the Senate passes my amendment.

In Pennsylvania, over 37,000 additional families will lose their homes in the next few years if we don't pass the Durbin amendment.

As one example of many, a divorced father of twin boys in Levittown refinanced his mortgage after his divorce in an attempt to keep a stable home environment for his boys.

The refinance placed him in an interest-only mortgage with American Home Mortgage, which itself went into bankruptcy.

He ended up in chapter 13 trying to make the payments on all of his debts.

But, the bankruptcy court could not help him restructure his mortgage under current law, even though the court has restructured each of his other debts to help him make his payments.

Prior to filing for bankruptcy, he tried to reach an agreement with his lender, but he couldn't find anyone to talk to consistently about the situation and he was given no viable options to catch up on his payments.

This single dad would have benefited from my amendment. So would his neighbors.

In Pennsylvania, neighbors of families that lose their homes will watch more than $3.3 billion of their assets evaporate unless we pass my amendment.

In Maine, nearly 5,000 additional families will lose their homes in the next few years if we don't pass this bankruptcy provision. If you are watching at home in California or New York that may not sound like a lot of families, but people who live in Maine know just how devastating those losses would be.

For instance, a woman from Woolwich was barely making ends meet when she received a notice that the interest rate on her mortgage was going to increase by 3 percentage points.

She immediately contacted the mortgage company and indicated that she could not handle the additional expense.

The lender told her that they were not going to be able to work with her and there was nothing that they could do for her.

I am confident this woman's lender would have tried a little harder to help if the threat of assistance in bankruptcy loomed.

In Maine, neighbors of families that lose their homes will lose more than $100 million of their assets unless we pass my amendment.

In Missouri, we estimate that 22,000 additional families will lose their homes in the next few years if we don't pass this amendment.

We are talking about people like a Ford retiree in Kansas City who had fallen behind on his mortgage payments due to a high interest rate on the loan. He passed away, and his widow was unable to keep up with the payments.

The home was worth far less than the outstanding mortgage balance, and she started to receive foreclosure notices. Her loan servicer was not receptive to a discussion regarding a loan modification.

Her monthly income left her with about $700 after she made this mortgage payment. And her monthly heating bills that winter were $600.

Again, I have to believe the availability of bankruptcy assistance would have encouraged her lender to work with her.

In Missouri, neighbors of families that lose their homes will watch almost $1 billion of their assets disappear unless we pass my amendment.

In my home State of Illinois, last year in Chicago alone nearly 20,000 homes were in some stage of foreclosure.

The red dots represent these 20,000 homes. They are everywhere. And the problem is getting worse.

Statewide, my amendment would help 60,000 families avoid foreclosure. Their neighbors would preserve nearly $20 billion if my amendment becomes law.

How could I not fight for this?

Maybe I shouldn't take this amendment so personally. Perhaps I should

just argue dispassionately about the merits of the proposal, since the merits really do speak for themselves.

But when a family loses its home, that is personal.

The home is where parents tuck their kids in at night. It's where families share their daily stories over meals at the dining room table. It's where secrets are shared, where dreams are born, and where bonds are formed.

Every foreclosure is a tragedy. Every foreclosure is deeply personal for the parents who have to explain to their kids why they can't sleep in their bedrooms anymore. Every foreclosure that can be prevented, should be prevented.

The Senate can stop 1.7 million of them with one vote. The Senate can save their neighbors—our constituents—over $300 billion in the preservation of home equity with one vote. I urge a ''yes'' vote.

I ask unanimous consent that the letter of support attached to this statement be submitted for the RECORD.

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

HELP 1.7 MILLION FAMILIES STAY IN THEIR HOMES! SUPPORT THE FORECLOSURE AMENDMENT TO THE HOUSING BILL

APRIL 29, 2009.

DEAR SENATOR: The undersigned consumer, civil rights, labor, faith-based, housing, financial, and community organizations representing tens of millions of Americans strongly urge you to vote for the foreclosure prevention amendment that will be offered by Senator Durbin when the full Senate takes up the House-passed housing bill (''Helping Families Save Their Homes Act'') later this week. Our organizations long have supported legislation to empower bankruptcy judges to modify mortgages on primary residences so as to provide the ''stick'' financially strapped homeowners desperately need to get their lenders to work with them to prevent avoidable foreclosures. Absent this stick, all the voluntary programs that have been put in place during the last 18 months have failed to produce the modifications necessary to save American families and repair the faltering housing market.

The amendment that will be offered on the Senate floor substantially narrows previous versions by enabling the servicer to prevent the borrower from obtaining a mortgage modification in bankruptcy simply by offering the borrower an affordable modification. Any such offer would bar judicial modification of the borrower's mortgage forever. And, with this ''stick'' in place, the new voluntary modification programs have a substantially greater chance of succeeding, which would help stop foreclosures and stabilize the economy.

Mark Zandi of Moody's Economy.com projects that up to 1.7 million families will be able to save their home from foreclosure if this amendment is approved. At a time when an estimated 6,600 families are losing their home to foreclosure each and every day, there is no time for delay. We urge the Senate to support the amendment to lift the ban on judicial modification of primary residence mortgages in extremely narrowly drawn circumstances. Passage of this legislation is the most important thing Congress can do right now to help arrest the financial crisis and the terrible toll that it is taking on American families.

Sincerely,

AARP.
AFL-CIO.
American Federation of State, County and Municipal Employees (AFSCME).
Americans for Fairness in Lending.
Association of Community Organizations for Reform Now (ACORN).
Calvert Asset Management Company.
Center for Responsible Lending.
Central Illinois Organizing Project.
Change to Win.
Consumer Action.
Consumers Union.
Consumer Federation of America.
DEMOS.
International Association of Machinists and Aerospace Workers.
International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW).
Leadership Conference on Civil Rights.
NAACP.
National Association of Consumer Bankruptcy Attorneys. National Community Reinvestment Coalition.
National Consumer Law Center (on behalf of its low-income clients).
National Fair Housing Alliance.
National Federation of Community Development Credit Unions.
National NeighborWorks Association.
National People's Action.
National Policy and Advocacy Council on Homelessness.
North Carolina State Employees Credit Union.
Opportunity Finance Network.
PaxWorld Mutual Funds.
PICO National Network.
Rural Advancement Foundation International—USA.
Service Employees International Union.
United Food and Commercial Workers International Union.
U.S. PIRG.
ACORN–NC.
Affiliated Congregations to Improve our Neighborhoods, Gainesville, FL.
Baldwin County ACT II, Baldwin County, AL.
Bayou Interfaith Together.
Berkeley Organizing Congregations for Action, Berkeley, CA.
Beyond Housing, MO.
Birmingham Area Interfaith Sponsoring Committee, Birmingham, AL.
Brockton Interfaith Community, Brockton, MA.
Brooklyn Congregations United, Brooklyn, NY.
Camden Churches Organized for People, Camden, NJ.
Communities Creating Opportunity—Kansas, Kansas City, KS.
Congregations and Schools Empowered, Glenwood Springs, CA.
Congregations Building Community, Modesto, CA.
Congregations for Community Action, Melbourne, FL.
Congregations Organizing for Renewal, South Alameda County, CA.
Congregations Organizing People for Equality (COPE).
Congregations United for Neighborhood Action, Allentown, PA.
Connecticut Association for Human Services.
Connecticut Legal Services.
Consumer Credit Counseling Service of Forsyth County, Inc., NC.
Contra Costa County Interfaith Supporting Community Organization, CA.
Delta Interfaith Network (DIN).
Essex County Community Organization, Essex County, MA.
Fair Housing Law Project, CA.
Faith in Action Kern County, Kern County, CA.
Faith in Community, Fresno, CA.
Faith United Empowering Leadership (FUEL).
Faith Works, North San Diego County, CA.
Federation of Congregations United to Serve, Orlando, FL.
Financial Protection Law Center.
Flint Area Congregations Together, Flint, MI.
Florida Legal Services.
Greater Long Beach Interfaith Community Organization, Long Beach, CA.
Greater Pensacola Community Organization, Pensacola, FL.
Hope Ministry of Point Coupee.
Housing Preservation Project, MN.
Inland Congregations United for Change, San Berardino/Riverside/Coachella, CA.
Interfaith Action, Rochester, NY.
L.A. Voice, Los Angeles, CA.
Legal Assistance Corp. of Central Massachusetts.
Legal Assistance Resource Center for Connecticut.
Massachusetts Communities Action Network, Boston, MA.
Metro Organizations for People, Denver, CO.
Metropolitan Interfaith Congregations Acting for Hope, Framingham, MA.
MICAH Project, New Orleans, LA.
Moving in Congregations, Acting in Hope, Cortland County, NY.
National Housing Law Project, CA.
Navy Marine Corps Relief Society, Camp Lejeunne, NC.
North Carolina Community Action Association.
North Carolina Housing Coalition.
North Carolina State AFL–CIO.
North Carolina State Conference of the NAACP.
Northern Valley Sponsoring Committee, Yuba & Colussa Counties, CA.
Oakland Community Organizations, Oakland, CA.
Orange County Congregation Community Organization, Orange County, CA.
Peninsula Interfaith Action, San Mateo County, CA.
People Acting in Community Together, San Jose, CA.
People and Congregations Together, Stockton, CA.
PICO California, Sacramento, CA.
PICO Louisiana Interfaith Together, Baton Rouge, LA.
Public Justice Center, MD.
Queens Congregations United for Action, Queens, NY.
ROOF Project, Greater New Haven Community Loan Fund.
Sacramento Area Congregations Together, Sacramento, CA.
San Diego Organizing Project, San Diego, CA.
San Francisco Organizing Project, San Francisco, CA.
United Interfaith Action of Southeastern Massachusetts, New Bedford/Fall River, MA.
Vermont Interfaith Action, Burlington, VT.
Western Massachusetts Legal Services.
Working Interfaith Network, Baton Rouge, LA.

Mr. BURRIS. Mr. President, as I address this Chamber today, more Americans find themselves face to face with the grim reality of home foreclosure than ever before. The magnitude of this problem is hard to overstate, and the human cost of forced evictions and shuttered windows is heartbreaking. In the midst of an unprecedented economic crisis, neighborhoods across the country are battered by month after

month of record foreclosures, and there does not seem to be an end in sight. We must therefore move with urgency to put an end to this crisis and help keep hardworking Americans in their homes.

With this increasingly dire situation in mind, I urge my colleagues to pass the Durbin amendment to the Helping Families Save Their Homes Act.

As it stands, 8.1 million homes are expected to be lost to foreclosure before we emerge from this crisis. The Durbin amendment would preserve more than $300 billion in equity for responsible homeowners and prevent 1.7 million of those mortgages from falling into foreclosure. Together with President Obama's Housing and Stability Plan, this measure would create strong incentives to modify mortgages outside of bankruptcy. Under this plan, a few troubled borrowers would receive controlled assistance in the court system. This empowers homeowners and also protects lenders to ensure that everyone is getting a fair deal.

Some elements of the powerful banking industry oppose what I see as a commonsense solution. They seek to misrepresent our efforts to help Americans remain in their homes, despite the fact that this legislation safeguards their assets too, and even provides lenders with a ''veto'' over which of their borrowers can go into bankruptcy. Please do not fall victim to the myths that some have tried to spread about this bill. Let me be clear: this measure is not a stopgap, it is not a bailout, and it will not cost taxpayers one more penny. It is a pragmatic and effective solution to a set of problems that have been wreaking havoc on the American families for far too long.

I applaud my colleague, Senator DURBIN, for his leadership on this issue. Where others have pointed fingers and played partisan games, Senator DURBIN has acted swiftly to provide a clear vision and a strong voice on behalf of troubled homeowners in our home state and across the country. I thank him for his hard work in creating this important legislation, and I am proud to support it.

Now is the time to focus on solutions. Now is the time to take swift action to save 1.7 million homes otherwise expected to fall into foreclosure. The day will come when it is appropriate to assign blame, to call those responsible to task for the recklessness that led us here. But first we must act boldly to aid the victims of the mortgage crisis and stop the relentless march of foreclosures across America's heartland. I call upon my colleagues to pass the Durbin amendment without delay.

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I know that in a few minutes we are going to be voting on the amendment offered by our colleague from Illinois, Senator DURBIN, and I wish to once again commend him and Senator SCHUMER and others who have been involved not just in the crafting of the amendment, but I wish to thank their staffs. Brad McConnell has done a Herculean job over these past number of weeks, including the 2-week recess period we were out of session, to try to reach a compromise with major lending institutions and others across the country to be supportive of this proposal that Senator DURBIN has asked us to approve, which is to allow judges under the bankruptcy law to work out modifications between lenders and borrowers with home mortgages that are involved in principal residences.

Again, Senator DURBIN has significantly shrunken his original idea to the point where this is a very modest proposal, for a very limited amount of time, affecting circumstances that would be very controlled due to the fears that were raised by others that this would be too broad and far-reaching. As to the point I attempted to make this morning, I am confounded by those who would oppose this amendment. Bankruptcy judges can engage in workouts between borrowers and lenders where vacation homes, holiday homes, recreational vehicles or yachts are involved, but they can't do it on a principal place of residence.

I think that is a hard argument to explain to the American people, most of whom—while they might like to have a vacation or a holiday home or other residences—only have a principal place of residence, so they are restricted. What strikes them—and those of us who are supportive of the Durbin amendment—is how you explain to two families who live next door to each other, one of whom only has a principal place of residence, as most Americans do, and the next-door neighbor who, because of economic circumstances, inheritances or whatever else it may be, has that wonderful beach house or that cabin up in the mountains or that yacht on the lake, and if they are in trouble on those mortgages, the bankruptcy judge can work out a new financial arrangement which allows them to keep that vacation home or keep that boat or log cabin up in the hills. Yet the next-door neighbor, with just a principal place of residence, hears: I am sorry, you are going to foreclosure. We are not allowed to work that out for you.

I don't know how you explain that to people, not to mention the damage you do, of course, to every other neighbor in that community whose property value declines because of the foreclosure, that family who is affected, neighborhood that is affected, economy that is affected.

What the Senator from Illinois has proposed is a very narrow, restricted, commonsense idea. As I mentioned earlier, meeting with bankruptcy judges in Connecticut on Monday, I raised with them what they thought of the Durbin amendment. They thought it was a wonderful idea. I half expected they would say the courts are crowded, already overcrowded. That was not the argument at all.

Again, I hope my colleagues, as they come to this Chamber, give this that additional consideration. This ought not be a matter that divides us here. This is one that could make some sense, even if it doesn't do as much as we hope it does. I mentioned earlier some 15,000 homes in my State could be positively affected by this amendment. What if it were only 5,000? What if we were off? Is it wrong to try to save 5,000 homes in my State? Or the 325,000, or a number like that, in California, not to mention States that have numbers that vastly exceed what Connecticut could benefit from?

We will not know unless we try. All the things we have tried—and I have been involved with most of them—have never done quite as much as we hoped they would. But until we get to the bottom of the mortgage market problem, until you get to the bottom of that, all these other economic problems are going to be more difficult to solve.

I applaud my colleague from Illinois. He has been tireless in his effort. I express my strong support for what he is trying to achieve here and hope my colleagues will do so as well in the few moments remaining before they come to cast a ballot on this important issue.

You may never do anything that will allow for as much relief to as many families as you will if you cast a positive vote on the Durbin amendment. I would love to tell you these other ideas we are going to work on will have great opportunity, but I must tell you candidly, as the chairman of the Senate Banking Committee, this idea offers more hope for more people than any other idea you possibly ever will vote on.

This is the moment, this is the hour, this is the day to make a difference and I know all my colleagues would like to make a difference for the people in their States who are going through job loss, home loss, retirement loss. Here is one answer that could very well provide the kind of relief all of us would like to see.

I urge the adoption of the Durbin amendment.

Mr. DURBIN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Alabama (Mr. SESSIONS).

The PRESIDING OFFICER (Mr. UDALL of Colorado). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 51, as follows:

[Rollcall Vote No. 174 Leg.]

YEAS—45

Akaka	Gillibrand	Mikulski
Bayh	Hagan	Murray
Begich	Harkin	Nelson (FL)
Bingaman	Inouye	Reed
Boxer	Kaufman	Reid
Brown	Kerry	Sanders
Burris	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Lautenberg	Stabenow
Casey	Leahy	Udall (CO)
Conrad	Levin	Udall (NM)
Dodd	Lieberman	Warner
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden

NAYS—51

Alexander	Crapo	Lugar
Barrasso	DeMint	Martinez
Baucus	Dorgan	McCain
Bennet	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Nelson (NE)
Brownback	Grassley	Pryor
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Byrd	Hutchison	Shelby
Carper	Inhofe	Snowe
Chambliss	Isakson	Specter
Coburn	Johanns	Tester
Cochran	Johnson	Thune
Collins	Kyl	Vitter
Corker	Landrieu	Voinovich
Cornyn	Lincoln	Wicker

NOT VOTING—3

Kennedy	Rockefeller	Sessions

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of the amendment, the amendment is withdrawn.

The majority leader is recognized.

Mr. REID. Mr. President, we are now going to proceed to the Strickland nomination. There should be a vote on that within the next couple of hours. We have a very important amendment that is going to be debated this evening, this afternoon, by Senators DODD and SHELBY. It is a substitute to the amendment that is now before the body. It is an extremely important amendment.

I would hope if Senators have any other amendments they want offered to this bill that they should do it. We want to finish this legislation as quickly as we can. It is extremely important we get it done.

We have 3 weeks left in this work period. There are things we have to complete this work period. We have to complete this housing legislation. I would like to do that in the next few days; hopefully, tomorrow. We are not going to have any votes tomorrow after 11 o'clock.

Hopefully, we have all of the cards lined up. We can finish this housing legislation tomorrow. We are going to go to the credit card legislation as soon as we finish this housing legislation. We are going to go, after that, to the procurement legislation. That is a bipartisan piece of legislation with Senators LEVIN and MCCAIN.

Then, before we leave, we are going to do the supplemental appropriations bill. There is one other piece of work I wanted to do, but we—it doesn't appear that the HELP Committee is going to be able to have that marked up in time for me to do it. Frankly, we probably would not have time to do it anyway; that is, the FDA regulation of tobacco.

So everyone needs to understand this is work we have to do before we leave. Then when we come back, the next work period is only 4 weeks. I have told Senator KOHL that we are going to do the railroad antitrust legislation during that 4-week work period. We are going to do that either the first or second week. Hopefully, no other emergencies come up that get in the way of not allowing us to do that.

Also, because the budget passed yesterday, as soon as we get the 302(b) allocations, which should be soon, we are going to move as quickly as we can to start working on the appropriations bills.

There is a general feeling of the Democrats and Republicans that we want to be able to get some appropriations bills done.

Senators INOUYE and COCHRAN are two of the most valued Senators we have; they are experienced. They should be able to move us through them. So we pretty well understand what the workload is. The main question this afternoon is whether there are other amendments to be offered to the housing bill? During this period, we have a significant number of nominations that we will do our best to work out with the Republicans. We have done pretty well so far. We have quite a chunk still pending. We are concerned about David Hayes, Dawn Johnsen, and a number of others we have to see if we can work out a time agreement on.

AMENDMENT NO. 1018

(Purpose: to provide a complete substitute)

Mr. DODD. Mr. President, on behalf of Senator SHELBY and myself, I call up amendment 1018 and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself and Mr. SHELBY, proposes an amendment numbered 1018.

Mr. DODD. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. DODD. I will wait until after the completion of the debate on the Strickland nomination to talk about the amendment. I am sure Senator SHELBY will as well.

EXECUTIVE SESSION

NOMINATION OF THOMAS L. STRICKLAND TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The bill clerk read the nomination of Thomas L. Strickland, of Colorado, to be Assistant Secretary for Fish and Wildlife.

The PRESIDING OFFICER. There will be 3 hours of debate with 1 hour under the control of the majority and 2 hours of debate under the control of the minority, with 30 minutes under the control of the Senator from Kentucky, Mr. BUNNING.

The Senator from Kentucky.

Mr. BUNNING. Mr. President, I rise in opposition to the nomination of Thomas Strickland to be Assistant Secretary for Fish and Wildlife at the Department of the Interior. I have met with Mr. Strickland, and while he has a distinguished career in public service, I do not believe he is the appropriate candidate to fill this position. His disregard for second amendment rights, coupled with his position on domestic energy production, leaves me little choice other than to oppose his nomination today.

In December of this past year, the Department of the Interior took great steps forward toward reversing the ban on lawful firearms in parks. However, because of one court case on technical grounds, millions of law-abiding park visitors find their second amendment rights challenged yet again. For decades, regulations enacted by unelected bureaucrats at the National Park Service and the U.S. Fish and Wildlife Service have prohibited law-abiding citizens from transporting and possessing operational firearms on Federal lands managed by these agencies. The enactment of these rules preempted State laws, bypassed the authority of Congress, and trampled on the constitutional rights of law-abiding Americans guaranteed by the second amendment for more than 170,000 acres of public lands. No other Federal land management agency has enacted anti-gun rules similar to the Park Service and Fish and Wildlife.

Both the Bureau of Land Management and the U.S. Forest Service allow for the law of the State in which the Federal property is located to govern firearm possession. Neither of these agencies experienced any difficulties as a result of allowing firearm possession.

I have met with my friend, Secretary Salazar, who is now the Secretary of the Department of the Interior, and told him of my support for repealing this firearm ban. At the time, Secretary Salazar agreed with me and stated before the Senate Energy Committee that he supports repealing the ban. This is the same committee that

voted this past November, 18 to 5—I repeat that, the committee voted 18 to 5—to repeal the ban. Secretary Salazar, then-Senator Salazar, voted in support of the repeal. Because of one court case, the Department of the Interior is backpedaling on its original position.

I believe this is an unsound policy and extremely shortsighted. This is why I, along with my good friend Senator COBURN and 16 other colleagues in the Senate, sent a letter to the Department of the Interior for a clarification of its views on this regulation. While I appreciate the Secretary getting back to me so quickly on this, the response I received was short and vague. I have always had a good working relationship with Secretary Salazar. In the past, he has gone out of his way to tell me personally of his support for second amendment rights. Rest assured, I will hold him to his word and will be watching this situation very closely as it continues to unfold. I will continue to work with the Department of the Interior to get this regulation implemented properly.

I am also concerned about this nominee's stance on domestic energy production. I have long said, along with many of my colleagues in the Senate, that America has a domestic resource to meet its growing energy needs. In order to meet them, we need to use all our resources, including nuclear, clean coal, renewables, along with oil and natural gas. America has a wealth of oil and natural gas reserves that, if utilized properly and in an environmentally sound manner, could meet our energy demands for decades to come. The nominee before us today, Thomas Strickland, does not support using all forms of energy. He has been very public in his position that we should not open ANWR to domestic energy production. I have been to ANWR to see firsthand what all the talk was about. After visiting it, I am even more confident in my support for drilling there.

We met with the environmentalists and villagers on the border of ANWR and talked to them about the desperate need of the United States for more domestic energy sources. There were a few residents who expressed opposition, but they were in a very small minority. The majority of the people living near ANWR, more than 75 percent, support drilling there. I know that Strickland, along with some of my colleagues in the Senate, is desperate to stop us from opening ANWR. The facts about ANWR, however, are not on their side. Some of these facts need to be repeated, especially for those who are new to this debate.

ANWR itself is roughly the size of South Carolina. It is absolutely enormous. It is 19.6 million acres or 30,000 square miles. When we talk about drilling in ANWR, we are talking about clean drilling in an area that is less than 2,000 acres. That is one one-hundredth of 1 percent of the total acreage in ANWR. It is actually smaller than most airports.

To say that drilling in this limited portion of ANWR threatens the entire environment of this refuge is far-fetched and just plain wrong.

During my trip, I visited the sites at Alpine and Prudhoe Bay. There is no doubt in my mind that we can develop ANWR in a safe and effective manner. Drilling will only be a small footprint in ANWR that can be carried out in an environmentally sound manner. State-of-the-art technology will lessen the environmental impact. The old stereotypes of dirty oil drilling don't apply anymore. We all want to do what we can to protect the environment, but it is not credible to say that looking for oil in this small, limited part of ANWR is a dangerous threat to the entire region. As our demand for energy is growing, we must increase our energy supply to keep up. ANWR is the most promising domestic source of oil we have. To automatically take it off the negotiating table, as this nominee has, is shortsighted.

Finally, I have concerns with Mr. Strickland's stance on regulation for coal mining operations. The Commonwealth of Kentucky is home to some of our Nation's largest coal reserves. In fact, we have about 250 years of coal reserves or about the same amount of coal reserves that Saudi Arabia has for oil. I am proud to come from a State that has coal reserves and firmly believe we have the ability to develop and use this natural resource in an environmentally sound manner. This is why I was pleased, last December, when the Department of the Interior issued a rule to clarify the disposal of excess spoil created by coal mining operations.

The rule also requires mine operators avoid disturbing streams, to the greatest extent possible, and clarifies when mine operators must maintain an undisturbed buffer between the mine and the adjacent streams. Aside from striking a balance between environmental protections and responsible mining operations, this new rule clarified a longstanding dispute over how the surface mining law should be applied.

Past confusion over how it should be applied has led to undue litigation, suspension of mining operations and, ultimately, job loss for many mining communities across the country and in Kentucky. In discussions I had with both the Secretary of the Interior and Mr. Strickland earlier this year, I expressed my support for this new rule and respectfully asked that they take this support into account. Both nominees stated they would not overturn the rule. Yet this past week the Department of the Interior reversed its position and asked for the rule to be overturned.

Issuance of the rule represents the culmination of a 7-year process that was complete and well thought out. While developing the rule, the Office of Surface Mining solicited public input and received over 43,000 comments on the proposal.

They held four public hearings that were attended by over 700 people. When considering alternatives to the proposed rule in the Environmental Impact Statement, OSM selected the most environmentally protective option. It helps ensure that coal mining activities are conducted in a manner that protects both mining communities and the environment. Overturning this rule risks returning to a state of confusion about how to apply the surface mining law, risking the future of mining operations, local communities, and ultimately access to our most reliable domestic source of energy.

In my home State of Kentucky, over 24,000 jobs are at risk should surface mining operations be disrupted. I repeat that. Over 24,000 jobs are at risk should surface mining operations be disrupted. This is about half the jobs at risk for the region of Kentucky, Tennessee, West Virginia, and Virginia.

I am very disappointed that the Department of Interior, under the leadership of both Secretary Salazar and Mr. Strickland, chose to overturn this rule. Not only will it delay coal mining operations, but it will also jeopardize jobs and energy production. That is why I find myself on the floor unable to support this nominee today.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, this is a good day for those of us who want to see this environment protected because we have before us an excellent nominee, Thomas Strickland, to be Assistant Secretary of the Interior for Fish, Wildlife, and Parks. Many of us know Tom, and we know he has the experience and the expertise to be an exceptional—an exceptional—Assistant Secretary of the Interior.

He has an outstanding record of service in the public sector. In the 1980s, he was then-Colorado Governor Richard Lamm's chief policy adviser, and he had extensive experience dealing with the Interior Department and Federal agencies on all natural resource issues.

I say to the Presiding Officer, I think, as my colleague knows so well, one-third of Colorado is in Federal lands, and the actions taken by the Federal Government in Washington have a profound impact on the State. So Tom's experience with public lands issues from that State's point of view will give him a valuable perspective as he works with State and local governments to make sure their needs are being met, their voices are being heard. The people of America can be comfortable in that because Tom comes to

this work very much through a State lens.

From 1985 to 1989, Tom was the head of the Colorado Transportation Commission, and he served as U.S. attorney for Colorado from 1999 to 2001.

On a personal level, Tom Strickland has a passion for the outdoors, and he has a commitment to public lands. All of us know that when we think about America, we think about our Constitution and we think about how proud we are of the freedoms we have. We also think about ''from sea to shining sea.'' We think about this amazing—amazing—gift we have been given. We must protect the environment, the parks, the rivers, the marshlands, the streams, the wildlife that rely on these assets. So in Tom Strickland, we have someone who gets it all. He understands the need to preserve our magnificent parks and open spaces, but for the benefit of the people.

In the late 1980s and 1990s, he led an initiative called Great Outdoors Colorado which directed State lottery moneys to the acquisition of public lands for parks, open space, and conservation. This great achievement has left Colorado with a lasting legacy of public lands for future generations—with $600 million invested and 600,000 acres protected in State parks, open space, and wildlife.

Mr. President, a lot of times you will hear people say: Well, there is too much land—too much land—in open space. There is too much land that has been conserved. A lot of our friends on the other side of the aisle sometimes express that view. But what I want to tell them here today is, from my own experience in my own State—and I am sure our Presiding Officer, who is sitting in the chair, would corroborate this—the beauty we have in our States is a magnet for tourism, which is one of the largest businesses we have in the West and, frankly, throughout our Nation. People want to come and not look at congested highways. That is not why they come. They do not come to America to see, frankly, offshore oil rigs. They come to America to see the beauty—this God-given beauty of our Nation. I think Tom Strickland totally gets that.

We certainly do live in a nation that is blessed with magnificent parks and spectacular wildlife refuges in all 50 States. In my own State—and I can tell you, people come from far and wide to see the wildlife refuges in San Francisco Bay and San Diego and our national parklands such as the Golden Gate National Recreation Area, Point Reyes National Seashore, and Yosemite National Park. I will tell you, Mr. President, the first time I stepped onto the parklands at Yosemite, I was awestruck. And all of you know I am not usually at a loss for words. But I was. I was overwhelmed with God's gift. We just need to appreciate this, and we need people in places of authority who appreciate this and who do get the connection between a clean and healthy environment and the physical health of our people; between a beautiful, clean, healthy environment and tourism and recreation and fishing and all the things that add so much value—dollar value and also just value to the spirit and value to the soul.

Today, our parks and our refuges are threatened by budget shortfalls, maintenance backlogs, and other impacts. Because of the Endangered Species Act, we have saved some of America's iconic species, including the bald eagle. But there is much more to be done.

Over 300 Fish and Wildlife Service positions have been eliminated since 2004. Funding shortfalls have limited public access. What is the point of all this beauty if the public cannot get access because we are so stressed in our budget? We have had reduced law enforcement in the parks, and we have seen threatened wildlife. Recent funding in the President's stimulus bill that we passed here will help to address some of the immediate needs, and I am so pleased about that. But a long-term solution is needed. If I can say, the long-term solution to this lack of interest in the last 8 years in our resources—this neglect of our resources—the first step, it seems to me—we will say the second step because the stimulus package was the first step—the second step is putting someone in charge of these treasures who really gets it, who really understands.

When Mr. Strickland came before our Environment Committee, he impressed me with his understanding of these challenges, and he made a commitment to address them.

During his nomination hearing, he pledged to uphold the commitment made by President Obama to restore scientific integrity by being—and I quote him—''open and honest with the American people about the science behind our decisions.'' Those are his words. So he is not coming there to just wake up one morning and say: Oh, I think I want to save this particular species because I like it. He is going to come there and talk to the scientists and make sure we are doing all we can to preserve and protect our heritage at the time when we have to take action because the scientists have pointed the way.

Tom Strickland's nomination enjoyed strong support in the Environment and Public Works Committee. I believe he is an excellent choice to provide the strong leadership we need so we can oversee our unique and irreplaceable treasures.

Sometimes when I need inspiration I read from different religions, and one of the quotes I read was written by a rabbi in the eighth century. I am not quoting it exactly, but the paraphrase is this—it is God saying: Please respect what I have given you because once you ruin it, it cannot be replaced. That is the essence of it. So it is not as if we have a do-over. If we lose these incredible assets—whether it is an endangered species such as the bald eagle or we lose the beauty of a clean-running stream because coal ash just leaked and covered it all up and there is no more stream—you really cannot get in there and do anything about it.

So we need someone like Tom Strickland who has the experience—who has the pragmatic experience to seek that balance we need, that balance all of us need in this society between, yes, clean, sustainable development, but also sustaining the magnificent open spaces that, frankly, people who came before us—and as I look at the Presiding Officer, it is a very moving moment because we think of Congressman Udall, whom I worked with, who did so much to teach us about our obligation. Now we have two Senators Udall. What a spectacular thing that is.

I think Tom Strickland comes before us today from Colorado with this background that we need to say: Thank you, Tom, for running—not give him a hard time about confirming him. This should be an overwhelming thank-you. Tom Strickland, thank you for doing it. Thank you for working so hard. Thank you for putting your name out there. Yes, you take the hits, but today I think you are going to get the votes. I am going to get down there in the well and make sure Tom Strickland is, in fact, confirmed.

Mr. BENNET. Mr. President, I rise today to speak in support of the nomination of Thomas L. Strickland, to be Assistant Secretary for Fish and Wildlife and Parks at the Department of Interior.

Secretary Salazar and Thomas L. Strickland are both legendary Colorado public figures in their own rights, and I cannot think of any two people better qualified to provide leadership in the Department of the Interior.

Thomas L. Strickland was born and raised in Texas and later attended Louisiana State University, where he played football. He earned a J.D., with honors, from the University of Texas in 1977.

Early in Strickland's career, he worked for Colorado Governor Dick Lamm, and later became Lamm's director of policy and research. In Colorado, such a prestigious statewide policy position requires one to be well-versed in important issues affecting the West, and impacting public lands and water. In 1984, Strickland accepted a position at Brownstein, Hyatt & Farber, where he eventually became partner.

Strickland was the Democratic nominee for the U.S. Senate in both 1996 and 2002, but the seat eluded him, and though he lost both times to Senator Wayne Allard, Tom became well known throughout our State and he is extremely well liked and respected on both sides of Colorado's aisle.

After the 1996 campaign, Tom returned to his law practice.

In 1999, President Clinton appointed him U.S. attorney for Colorado. He assumed office the day after the Columbine High School massacre and

worked to enforce existing gun laws in the wake of that horrible disaster. He was cognizant of how important gun rights interests are, but at the same time, he firmly believed in enforcing gun laws and preserving school safety. He worked with Federal and local prosecutors to bring gun charges under State or Federal laws, whichever were most stringent.

Strickland also worked with the Hogan & Hartson law firm, serving as, managing partner for the firm's Colorado offices, and was a member of Hogan & Hartson's executive committee.

I was pleased when I first heard that President Obama and Secretary Salazar wished to make Tom such an integral part of their team. As a chief advise on fish, wildlife and parks issues, I know Tom will be a vital asset to my dear friend and predecessor Ken Salazar, and I urge my colleagues to vote in favor of his nomination.

Mr. BINGAMAN. Mr. President, the Assistant Secretary for Fish and Wildlife and Parks is one of the principal offices in the Department of the Interior. He is responsible for overseeing both the Fish and Wildlife Service and the National Park Service. The Fish and Wildlife Service manages 550 national wildlife refuges, encompassing more than 150 million acres of land. The National Park Service manages several hundred national parks, monuments, battlefields, landmarks, seashores, trails, and rivers, encompassing 84 million acres. By any measure, the Assistant Secretary for Fish and Wildlife and Parks is an important office, which needs to be filled by a talented and capable individual.

President Obama has made an excellent choice in nominating Thomas Strickland for this important post. Mr. Strickland is a lawyer by training. He is a graduate of the University of Texas Law School and clerked for a Federal district judge in Houston. He practiced law in Denver and served as Governor Richard Lamm's chief policy adviser. He chaired Colorado's Transportation Commission. Ten years ago, President Clinton nominated him, and the Senate confirmed him, as the U.S. attorney for Colorado. He ran for the Senate, twice, unsuccessfully, in 1996 and 2002. He was the managing partner of the Denver office of the law firm of Hogan and Hartson and later the executive vice president and chief legal officer of the United Health Group. Since January, he has served as Secretary Salazar's chief of staff at the Department of the Interior.

Over the course of this long and distinguished career, Mr. Strickland has dealt frequently and extensively with environmental and natural resource issues. Along with Secretary Salazar, Mr. Strickland was one of the founders of the Great Outdoors Colorado Program, which has invested $600 million of State lottery money to protect 600,000 acres of state parks, wildlife habitat, and open space in Colorado since it was founded in 1993.

Because the portfolio of the Assistant Secretary of Fish and Wildlife and Parks bridges the jurisdiction of both the Committee on Energy and Natural Resources and the Committee on Environment and Public Works, our two committees share jurisdiction over Mr. Strickland's nomination.

The Committee on Energy and Natural Resources held a hearing on his nomination over a month ago, on March 24, and favorably reported the nomination to the Senate on March 31.

One hundred days into the Obama administration, Secretary Salazar remains the only Interior Department official confirmed by the Senate. The work of the Interior Department is too important and too demanding for one individual. The President has nominated a superbly qualified person for the position of Assistant Secretary for Fish and Wildlife and Parks. I urge my colleagues to vote to confirm Mr. Strickland for this important post.

Mr. INHOFE. Mr. President, I rise today to speak on the nomination of Tom Strickland—and to raise concerns about recent actions taken by the Department of Interior relating to the Endangered Species Act.

As Assistant Secretary for Fish, Wildlife, and Parks at the Department of Interior, this position is responsible for overseeing many important programs. Most notable to me as ranking member of the Environment and Public Works Committee, are the management of the U.S. Fish and Wildlife Services and the implementation of the Endangered Species Act.

When Mr. Strickland came before our committee for a hearing on his nomination in March, Congress had just passed the Omnibus appropriations bill that contained a mandate to revise and reissue ESA rules concerning the listing of the polar bear and modifications to the section 7 consultation process. This action allowed the Departments of Commerce and Interior to reverse rules without the usual requirements for public input and allowances for legal objections under the Administrative Procedures Act.

Now today, as we debate the nomination of Mr. Strickland on the floor, the administration has already reversed the section 7 consultation rule in complete disregard of the APA and is poised to reverse both rules without the usual review process promised by President Obama's commitment to transparency and public process. Unfortunately, Congress and the administration's bold decision to willfully set aside rules protecting public input and transparency are in direct contrast to the majority's constant complaints to the last administration about the lack of process. Moreover, the revision of these rules was done without respect to a bipartisan letter to the Department of Commerce that I signed with Senators MURKOWSKI, BEGICH, and HUTCHISON urging the use of an open process complying with the APA and all laws governing the withdrawal of Federal regulations.

What troubles me further is the potential use of the Endangered Species Act as a tool to regulate greenhouse gas emissions. While some environmentalists would love to see the ESA used to regulate greenhouse gases, the ESA was never intended to set a climate change policy, but rather it is a tool only to protect endangered species. However, the listing of the polar bear last year as a threatened species has opened the door to the possible use of the ESA for disastrous carbon controls. That is why in December, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service jointly adopted a final rule that revises the regulations governing the consultation obligations of federal agencies under section 7 of the ESA and regulations providing for protections against the ''take'' of the polar bear. These rules were adopted through the normal rulemaking process and took into consideration nearly 235,000 public comments.

Under the ESA, a Federal action agency is required to initiate consultation with the Fish and Wildlife Service or the National Marine Fisheries Service if it determines that the effects of its action are anticipated to result in the ''take''—including potential harm—of any listed species, or the destruction or adverse modification of designated critical habitat. This includes actions the agency takes itself, actions that are federally funded, as well as the issuance of a Federal permit or license for a private party.

A key element of the final section 7 rule is its conclusion that it ''is not an appropriate or effective mechanism to assess individual Federal actions as they relate to global issues such as global climate change and global warming.'' The final rule then exempts from consultation actions which are ''manifested through global processes and (i) cannot be reliably predicted or measured at the scale of a listed species' current range, or (ii) would result at most in an extremely small, insignificant impact on a listed species or critical habitat, or (iii) are such that the potential risk of harm to a listed species or critical habitat is remote.''

Likewise, the final 4(d) rule for the polar bear provides that certain activities do not constitute a prohibited ''take'' of the polar bear. Specifically, the final rule states that the take prohibition does not apply to any incidental taking of polar bears within the United States, except for incidental taking caused by activities within the polar bear's current range. Like the section 7 rule, the preamble to the final 4(d) rule maintains that ''[t]here is currently no way to determine how the emissions from a specific action both influence climate change and then subsequently affect listed species, including polar bears.'' Accordingly, the preamble to the final rule provides that section 7 consultation is not required solely because a Federal action's greenhouse gas emissions may contribute to global climate change.

In regards to Assistant Secretary Designate Strickland, I am happy he stated in his confirmation hearing before the Senate Energy and Natural Resources Committee that he does not believe the ESA was intended or designed to regulate greenhouse gases or climate change. However, in his response to questions submitted by me after his confirmation hearing in the EPW Committee, I am troubled that Mr. Strickland did not fully address if he would set aside the APA or ensure an open public process in regards to revising the polar bear and consultation rules. It is my hope, that if confirmed by the Senate today, that Mr. Strickland will allow for the transparency and open public process expected of our government in reviewing the polar bear rule.

I plan on voting to confirm Mr. Strickland today to become the next Assistant Secretary at the Department of Interior. The Fish and Wildlife Service does a great deal of good, and I believe that Tom Strickland will do a good job, but I urge him to heed the call for an open and transparent governing process and to use the Endangered Species Act only for what it was created to do: to protect endangered species, not regulate greenhouse gases.

Mrs. BOXER. Mr. President, I hope we can have this vote shortly. At this time I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I ask unanimous consent that the time be divided equally during the quorum calls between the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I yield the floor, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, no one knows the man about whom I am going to speak better than the Presiding Officer, but I wish to talk about Tom Strickland. I can say without reservation or hesitation that Tom Strickland is a good friend and a tremendous public servant. He will be a great Assistant Secretary for Fish and Wildlife and Parks. That is a fancy name. Basically, what he will be is Ken Salazar's chief of staff. Ken Salazar depends on him and will depend on him even more after his confirmation.

Tom Strickland went to college at Louisiana State University where he was a football player—quite a good athlete—before returning to his native Texas to study law. He graduated from the University of Texas Law School with honors and went to work for the Governor of Colorado.

As Governor Lamm's chief policy adviser in a State where protecting natural resources is a top priority, Tom Strickland worked often with the Interior Department he will now help lead.

Even after Tom joined the private sector, he continued to advance many environmental and natural resources issues on a voluntary basis. He is especially proud of helping to create the Great Outdoors Colorado Program which has protected hundreds of thousands of acres of Colorado's beautiful wilderness and wildlife.

Tom is a well-known and successful lawyer in Colorado. President Clinton appointed Tom to be a U.S. attorney for Colorado in 1999. In a turn of events no one could have anticipated, he was sworn in the day after the terrible tragedy at Columbine High School just outside Denver. The 10th anniversary was observed with sadness just last week.

Tom Strickland has been a managing partner of an internationally respected law firm and the executive vice president of a major health care company. He has been very successful personally. He accumulated some wealth, but because of his belief in public service, he accepted his friend Ken Salazar's call for assistance to become part of the Obama administration. I admire his willingness to leave behind the lifestyle he has acquired to serve his country once again.

Tom's hometown newspapers called him tough and effective. He will certainly be both of those as Secretary Salazar's right-hand man in the Department of the Interior.

Tom Strickland is a strong environmentalist who understands the importance of investing in renewable energy and making America more energy efficient. He also appreciates our environment for its many splendors. Tom and his wife, Beth, are well on their way to achieving a goal they set to visit every national park in America.

It is fitting that someone with such a great appreciation for our Nation's natural wonders will be responsible for protecting and improving America's National Park Service.

Once Tom Strickland is confirmed, our country will be in a better place.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. UDALL of Colorado. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered. The Senator from Colorado is recognized.

Mr. UDALL of Colorado. Madam President, today, I rise to support the confirmation of fellow Coloradan, Tom Strickland, to be the next Assistant Secretary for Fish and Wildlife and Parks for the Department of the Interior.

As chairman of the National Parks subcommittee, I am particularly pleased to support the nomination of Tom Strickland for Assistant Secretary for Fish and Wildlife and Parks, because he has had a long history of activism on behalf of protecting national an State parks.

You will excuse me for indulging in a bit of home State pride when I say how great it has been to see so many Coloradans going to work for the Department in the Federal Government that has so much influence on the economic life of the West.

I think it speaks highly of the motivational leadership of both Secretary Salazar and this nominee to be the Assistant Secretary for Fish and Wildlife and Parks, Tom Strickland, that so many of their fellow Coloradans have voluntarily left the best State in the Union to work in Washington.

I know that Tom Strickland will be an excellent Assistant Secretary at the Interior.

He has an exceptional track record of leadership both as an attorney, as a businessman, as a civic leader and as someone dedicated to public service. He also has an extraordinary wife, Beth, who is inspirational in her own right.

Before coming to Interior, Tom worked in both the public and private sectors.

He served as U.S. attorney for the District of Colorado from 1999 through 2001, and has been a partner at several law firms, including Hogan & Hartson in Colorado.

From 1982 to 1984 he served as the chief policy adviser for Colorado Governor Richard D. Lamm, advising the Governor on all policy and intergovernmental issues, and from 1985 to 1989, he served on, and chaired, the Colorado Transportation Commission.

Tom graduated, with honors, from Louisiana State University, where he was an All-SEC Academic Football Selection, and he received his J.D., with honors, from the University of Texas School of Law.

I think it is clear that I have known Tom Strickland over many years.

Our work together has largely been in the public arena, where Tom—working with Secretary Ken Salazar—led efforts in Colorado to pass the historic ''Great Outdoors Colorado'' program, which dedicates State lottery money to the acquisition of public lands for parks, open space and conservation.

Tom is also an accomplished outdoorsman, and while we haven't climbed mountains together—at least not the 14,000 foot kind—we both have a love for the out-of-doors and the history, people, and landscapes of the West.

I think this love for the land is what motivated Tom to public service in the

first place, and sustained his two courageous runs for the U.S. Senate.

I was struck, as I often am, by a comment in a recent Tom Friedman's column. Mr. Friedman reminded us of the value of ''inspirational leadership.''

Mr. Friedman quoted Dov Seidman, the author of the book ''How'' on what makes an organization sustainable:

> Laws tell you what you can do. Values inspire in you what you should do. It's a leader's job to inspire in us those values.

I mention this because I know that, as the Assistant Secretary for Fish and Wildlife and Parks, Tom's job will demand both enforcement of important rules, regulations and laws, and inspired, collaborative leadership.

As one of the country's most successful lawyers, Tom will know how to enforce environmental laws. As a man who draws inspiration from our mountains, plains and waters, he also knows how to motivate and lead others.

With Secretary Salazar at the helm, I believe Tom Strickland will be a strong and effective partner.

As I conclude, I urge all my colleagues to support the confirmation of Tom Strickland this afternoon. There is no question he will do us proud in this new role he is so eager to assume.

Madam President, I ask unanimous consent that all debate time be yielded back and the Senate vote on the confirmation of the nomination of Thomas Strickland, with all other provisions of the previous order remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. UDALL of Colorado. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Thomas L. Strickland, of Colorado, to be Assistant Secretary for Fish and Wildlife? On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Alabama (Mr. SESSIONS), the Senator from South Carolina (Mr. GRAHAM), the Senator from Texas (Mrs. HUTCHISON), the Senator from Nevada (Mr. ENSIGN), the Senator from Utah (Mr. BENNETT), and the Senator from Oklahoma (Mr. COBURN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 2, as follows:

[Rollcall Vote No. 175 Ex.]

YEAS—89

Akaka	Barrasso	Bayh
Alexander	Baucus	Begich
Bennet	Grassley	Mikulski
Bingaman	Gregg	Murkowski
Bond	Hagan	Murray
Boxer	Harkin	Nelson (NE)
Brown	Hatch	Nelson (FL)
Brownback	Inhofe	Pryor
Burr	Inouye	Reed
Burris	Isakson	Reid
Byrd	Johanns	Risch
Cantwell	Johnson	Roberts
Cardin	Kaufman	Sanders
Carper	Kerry	Schumer
Casey	Klobuchar	Shaheen
Chambliss	Kohl	Shelby
Cochran	Kyl	Snowe
Collins	Landrieu	Specter
Conrad	Lautenberg	Stabenow
Corker	Leahy	Tester
Cornyn	Levin	Thune
Crapo	Lieberman	Udall (CO)
DeMint	Lincoln	Udall (NM)
Dodd	Lugar	Vitter
Dorgan	Martinez	Voinovich
Durbin	McCain	Warner
Enzi	McCaskill	Webb
Feingold	McConnell	Whitehouse
Feinstein	Menendez	Wyden
Gillibrand	Merkley	

NAYS—2

Bunning	Wicker

NOT VOTING—8

Bennett	Graham	Rockefeller
Coburn	Hutchison	Sessions
Ensign	Kennedy	

The PRESIDING OFFICER. Under the previous order requiring 60 votes for confirmation, the nomination is confirmed.

Under the previous order, the motion to reconsider is considered made and laid upon the table. The President shall be immediately notified of the Senate's actions.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009—Continued

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I will yield to my colleague from Missouri for comments, and I ask unanimous consent to be recognized after she speaks to make opening remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri.

Mrs. MCCASKILL. I ask unanimous consent to speak for 5 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION ENFORCEMENT

Mrs. MCCASKILL. Madam President, sometimes change comes quietly. Sometimes it comes with a big bang. Today change came quietly. I want to make sure everyone realizes the change that occurred.

For 3 years I have been talking about the problem of illegal immigration and what has caused this problem to flourish. I have been talking about the problem of the magnet of jobs that has drawn people over the border without documentation because they are trying to feed their families and the fact that no one was doing anything about employer enforcement.

When I got to Washington and I asked the head of immigration enforcement how many employers have been held accountable for knowingly hiring illegal immigrants, how many have been arrested, she could not even tell me. They didn't even keep the statistics. Think about that for a minute. They didn't keep the statistics of how many employers were held accountable for knowingly hiring illegal immigrants. I began pounding on immigration and customs enforcement about this, talking to them about basic investigative techniques.

In Missouri right now there are hundreds of employers that are breaking the rules knowingly. They are hiring people, paying them under the table, cash on Fridays. They are bringing pickup trucks from Mexico full of people, stuffing them all in an apartment. The vast majority of the business people are doing it right. They are trying to play by the rules, doing the very best job they can. But there is a chunk of employers out there that knew they were not going to get caught, knew nobody cared if they did, and they knowingly violated the law.

I asked the new head of immigration enforcement if that was going to change. I asked the new Secretary of Homeland Security if that was going to change. Today they announced a new policy. Finally, they have a set of guidelines going to everyone in the country about how we are going to prioritize going after those employers that knowingly hire illegal immigrants. We finally are going to get to the magnet. This is a crime we can deter.

If you think somebody is going to put you in jail for saying: Hey, I didn't care if you have papers or not, I can pay you cheaper; work you harder. I don't care if you are illegal or not; I don't want to know. In fact, bring your friends—if you don't think those people being held accountable is going to make a difference, then you don't understand law enforcement.

Today I am proud to say change came. The new guidelines require that, in fact, instead of working off tips, they are now going to embrace basic investigation. They will use undercover. They will use informants. They will use all kinds of documentation they can look at in terms of paper documentation. They will enlist the support and cooperation, ahead of workplace enforcement, of local law enforcement agencies, including the Justice Department. They have decided it is a new day in immigration enforcement and that we will get at the root of the problem.

I support E-Verify and I support giving employers all the tools we can to do the best job they can in hiring legal workers. But for those employers that don't care, that are doing it on purpose and knowingly doing it, we need to come down on them and come down hard.

This administration has figured it out. I congratulate the Secretary of

Homeland Security for these new policies. I stand in full support, and I know most of my colleagues do also. We finally will do something about illegal immigration when we shut down the magnet.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Let me inquire, Madam President, if I may, of my colleague: Do you want to offer the amendment at this juncture or do you want to make some comments on it?

Mr. CORKER. Madam President, I do not want to make any comments. I just want to call it up.

Mr. DODD. Why not go ahead and do that.

Mr. CORKER. OK. I thank my friend from Connecticut.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 1019 TO AMENDMENT NO. 1018

Mr. CORKER. Madam President, I ask unanimous consent to call up amendment No. 1019.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. CORKER] proposes an amendment numbered 1019 to amendment No. 1018.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To address safe harbor for certain servicers)

On page 17, strike line 1 and all that follows through page 18, line 4 and insert the following:

''(1) to the extent that the servicer owes a duty to investors or other parties to maximize the net present value of such mortgages, the duty shall be construed to apply to all such investors or group of investors; and

''(2) the servicer shall be deemed to have satisfied the duty set forth in paragraph (1) if, before December 31, 2012, the servicer implements a qualified loss mitigation plan that meets the following criteria:

''(A) Default on the payment of such mortgage has occurred, is imminent, or is reasonably foreseeable, as such terms are defined by guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008.

''(B) The mortgagor occupies the property securing the mortgage as his or her principal residence.

''(C) The servicer reasonably determined, in good faith, consistent with the guidelines issued by the Secretary of the Treasury or his designee, that the application of such qualified loss mitigation plan to a mortgage or class of mortgages will likely provide an anticipated recovery on the outstanding principal mortgage debt that will exceed the anticipated recovery through foreclosures or other resolution.

Mr. DODD. Madam President, I thank my colleague from Tennessee. Let me—since we are across the room from each other—invite you and your staff to meet with our staff and talk about the amendment since we are not sure what it is. But let's see if we can reach some accommodation.

Mr. CORKER. Madam President, I have a sense the merits of this amendment are so great that it will be accepted universally.

Mr. DODD. Madam President, I would expect nothing less from the Senator from Tennessee.

Mr. CORKER. I thank the Senator very much.

Mr. DODD. Madam President, let me first of all thank our colleague from Illinois. I know he did not prevail in his amendment dealing with the bankruptcy provisions, but I commend him for his efforts over the last number of weeks, I know in serious negotiations with others, to try to achieve an accommodation. That did not happen. I regret that was the case because I think that was one meaningful way to try to avoid some of the foreclosure problems we see in the country. So I am sorry that did not prevail.

Madam President, I wish to spend a few minutes, if I may, briefly describing the substitute amendment I have offered on behalf of myself and Senator SHELBY that is before us and will be now open for amendment—as the Senator from Tennessee has his amendment, and I know my colleague from Louisiana also has at least one—maybe two amendments—to offer on this bill as well.

Let me say to others, we would urge, if you have amendments, to let us know what they are. I also say to my colleagues this is a bill that, while it is going to be helpful to consumers and helpful to homeowners in trying to deal with the underlying problems, it is being sought after primarily by the financial institutions, the banks across the country, dealing with the FDIC, the insurance limits, among other matters. So it is very important to them, and Senator SHELBY and I recently worked this out to move forward.

But I want to say to my colleagues, there were other matters that are important as well. If this gets bogged down for days on end, the leader has indicated to me he will pull this bill down and we will maybe deal with it next fall. So to those out there who have an interest in what we have worked on here, I urge them to communicate with people that it is important we try to get this done fairly quickly.

We spent a lot of time on it. I think it is a good bill. It is a balanced bill. Senator SHELBY and I worked hard on these matters with our committee members. So this substitute is bipartisan, and we hope our colleagues will respect that and let this not become a vehicle for an awful lot of other issues for which I do not question the motivations or the sincerity of those who might offer amendments, but this is not going to become a vehicle for all these other ideas that do not relate to the underlying purpose of this bill.

As we all know, and I have mentioned before, we have a staggering number of foreclosures in the country. Some 9,000 to 10,000 homeowners, before this evening is out, will receive a default or action notice. If current trends continue, two-thirds of those people will lose their home. So of the 10,000 today who will receive that default or action notice, two-thirds of them will probably lose their home unless some action is taken. In all, some 3.4 million homes are expected to go into foreclosure this year alone—between 8 and 12 million homeowners over the next several years. Those are breathtaking numbers when you consider the damage to families, to neighborhoods, and to communities across our Nation.

According to industry figures, by the end of last year, 20 percent of all mortgage loans were already under water—1 in 5—that is, the cost of the mortgage exceeded the value of the home. Those are stunning numbers: One out of every five homeowners owed more on their mortgage than the home was worth.

In my home State of Connecticut, the problem is very serious and spreading. The Center for Responsible Lending projects that some 17,000 homes in my State of Connecticut will go into foreclosure in 2009—nearly 60,000 over the next 4 years.

I recently invited HUD Secretary Shaun Donovan to my State. We visited Bridgeport, CT, which alone has some 5,200 subprime mortgages—many already in foreclosure. Joan Carty, the CEO of the Housing Development Fund, a housing nonprofit group in Bridgeport, CT, showed the Secretary and me a series of maps of the city of Bridgeport. She had in those maps the locations of each subprime loan and each foreclosure. It literally looked like a cancer spreading across the body politic of that city.

We visited New Haven, CT, where we saw how property values for homes located within an eighth of a mile of a foreclosed home dropped by an average of $5,000 the day of that action or default. And as we saw across Hartford, CT, where home prices have sunk almost 8 percent in the last year alone, it does not take long before the epidemic affects whole cities.

In fact, this crisis could even result in a net loss in home ownership rates for African Americans, wiping out a generation of hard work and gains in wealth.

The people I have met who are losing their homes are not statistics. They are grandmothers on fixed incomes who trusted a mortgage broker who put them in adjustable rate mortgages with exploding payments. Their incomes were not going to ever adjust to a level where they could afford the fully indexed price of that mortgage. But their mortgages adjusted, and the brokers knew these borrowers were headed for trouble.

I have met working parents who lost a job or are facing a health care crisis. Fifty percent of the foreclosures are related to a health care crisis in that family—not acquiring an automobile

you cannot afford or a big-screen television, as some have been suggesting. Fifty percent are related to a health care crisis. One victim of predatory lending I met in Hartford, CT, tests children for lead poisoning for a living.

These are good people, decent Americans, many of whom were taken advantage of, often by deceptive practices. In fact, the Wall Street Journal reported that 61 percent of those in subprime mortgages could have qualified for prime mortgages but were urged or pushed into riskier mortgages by lenders and brokers who knew better. Why did they do so? Because those brokers and lenders made more money by putting these unsuspecting borrowers into riskier, higher priced mortgages.

So we have an obligation, I think as a body, to do everything we can to get this right. That is not to excuse irresponsible behavior. I am not suggesting such. But in matter after matter, this was not a matter of irresponsibility; it was either deceptive practices or conditions which forced a family—through a job loss or a health care crisis or others—to be put at risk of losing their home. This effort is to get this right not only for the families but even, in a larger sense, for the economy as a whole, which hinges on our ability to put a stop to these foreclosures.

Protecting families and our economy was what motivated me 2 years ago—this month, in fact—when I convened a Homeowners Preservation Summit, at which leaders and servicers agreed to a set of principles. This was in the spring of 2007, 2 years ago. We met, and they committed themselves to a series of principles to making their best efforts to reduce foreclosures through loan modifications.

To say there was a total failure by the industry to follow through on that agreement would be a vast understatement.

Thankfully, even if lenders, servicers, and the previous administration failed to understand the magnitude or the severity of the crisis and the obligation to act, there has been no such problem with the current administration, I am pleased to report. In putting forward a $275 billion plan, the Obama administration clearly understands that we cannot get our economy back on track until we stop the tidal wave of foreclosures sweeping across our country.

The underlying legislation Senator SHELBY and I have offered gives them the tools to do that as effectively as possible by expanding the ability of FHA, the Federal Housing Administration, and Rural Housing—and I have mentioned cities. But I want to point out, rural housing is also suffering from foreclosures; this is not just an urban problem. This affects rural States. I know the Presiding Officer and my friend from Louisiana will testify to this: In their rural communities, foreclosures are not limited to the larger cities in their States but it also affects rural people as well. That point needs to be made.

The underlying legislation gives them the tools to do that as effectively as possible by expanding the ability of FHA and Rural Housing to do loan modifications, by creating more enforcement tools for FHA, the Federal Housing Administration, to drop lenders who break FHA rules, by expanding access to the HOPE for Homeowners Program, and by providing safe harbor for servicers who modify a loan consistent with the Obama plan or refinance a borrower into a HOPE for Homeowners loan.

It is disheartening that even as more and more homeowners have fallen behind on their loans, the response of loan servicers has been so inadequate. We have heard over and over that the reason servicers are hesitant to use the tools we have given them is that they fear they will be sued for violating pooling and servicing agreements.

You would think that from an investor's point of view, reduced interest payments from modified loans would be better than no interest payments from defaulted loans. Unfortunately, you would be wrong in that. The mortgage-backed securities market in which so many of these loans are tied up is—not to put too fine a point on it—a mess. These mortgages have been sliced and diced into thousands of pieces, with securities sold off to different investors all over the globe. These investors have different interests in the loan pools—some rated triple-A, others have more risky segments. Untangling this complex mess of competing interests has been nearly impossible. One direct solution to this problem would have been the bankruptcy amendment offered by Senator DURBIN. That failed.

Another, which we provide for in this amendment, is to make modifications more likely by ensuring that servicers who provide modifications consistent with the administration's plan get the benefit of safe harbor from needless lawsuits.

Our colleague from Florida, MEL MARTINEZ, is the author of this provision. This, again, is a bipartisan proposal. Senator MARTINEZ, I think, will come to the floor and address the issue in greater detail. Senator MARTINEZ is a former Secretary of HUD under the Bush administration and brings a wealth of knowledge to these debates and discussions. It was his contribution on the safe harbor provision which caused it to be included in this legislation.

Another provision, which we provide for in this amendment Senator SHELBY and I have offered, is to make modifications more likely by ensuring that servicers who provide modifications, consistent with the administration's plan, get the benefit of safe harbor from needless lawsuits. I mentioned that. To ensure more servicers take advantage of the HOPE for Homeowners legislation we created last summer, those refinances are covered as well. Indeed, the legislation also streamlines the HOPE for Homeowners program. My colleagues will recall we adopted that last summer. We all hoped it would be a great source of modification for these mortgages. And, candidly, it ended up being a lot less than we hoped for. As the author of those provisions, it was a complicated proposal. There were a lot of fingerprints on it to try to get it out of the Congress. Unfortunately, I think we made it far more complicated than we needed to.

Our bill today is designed to streamline that program and to make it more workable for families across the country. The truth is, despite the efforts of Senator SHELBY, myself, and others, the HOPE program has not worked to date—in large part because of servicers' steadfast refusal to accept reasonable settlements for second mortgages, which belong to about half of all at-risk mortgage holders.

This is a problem the administration recognizes, with its recently announced Second Lien Program, which will make it easier for borrowers to modify or refinance their loans under the HOPE for Homeowners program.

With this legislation, we make the program far more user-friendly for borrowers and servicers alike by lowering fees and streamlining borrower certification requirements. In addition, we allow for incentive payments to servicers and originators to participate in the program, while giving the HUD Secretary limited discretion to determine who reaps the benefits of any future appreciation on that home.

For all these reasons, it is time for the banks, I believe, to step to the plate.

Consider for a moment all that we are doing to prevent foreclosures and restart lending in this legislation alone, this substitute.

As I said, we are offering banks a safe harbor to do modifications and refinancing.

To free up credit, we increase permanent borrowing authority for the Federal Deposit Insurance Corporation and the National Credit Union Administration to $100 billion and $6 billion respectively. On a temporary basis, we increase that authority to five times those amounts. Chairman Sheila Bair has said those levels will allow the FDIC to reduce the special assessments on banks by as much as 50 percent, making credit more available in our communities. According to the Independent Community Bankers Association, which strongly supports this legislation—and I thank them for it—this will increase lending by some $75 billion.

In addition, Senator SHELBY and I extend for 4 years—to December 31, 2013—the increase in deposit insurance limits from $100,000 to $250,000. We initially did this in the Emergency Economic Stabilization Act. However, in that legislation we increased the limit only through this year.

For 75 years, deposit insurance has been a stabilizing force during some of

our Nation's most troubling economic times. This increase will prove especially helpful for smaller financial institutions today, particularly our community banks across the country, which derive 85 to 90 percent of their funding from deposits.

The increase from $100,000 to $250,000 goes a long way toward eliminating uncertainty in the system. If you are planning for your retirement and buy a 3-year certificate of deposit at a bank for $150,000, you want to know your investment will be safe after 2009 comes to a close. This is to say nothing of the many other programs and capital injections already in place to protect and sustain them in our credit markets.

I would be remiss if I did not take a moment to commend our majority leader, Senator HARRY REID, for a very important contribution he has made to this legislation. Section 103 of this bill authorizes an additional $127.5 million, on top of other amounts that may be authorized, for foreclosure counseling and outreach efforts targeted to the areas that are the hardest hit by foreclosures. In addition, the provision provides for funding to increase public awareness such as through advertising, including Spanish language advertising, to try to steer people away from foreclosure and other financial scams that proliferate in hard times such as these.

Ultimately, this legislation by itself, of course, will not turn this Nation's economy around, but it will be a contribution, and a positive one, both to a healthier banking system and, more importantly, to more stable home ownership. There is no silver bullet—I know my colleagues know that—when it comes to solving our financial crisis, but each step such as this that we take brings us closer to seeing this come to an end, these most troubling economic times for our country. So by providing additional stability and certainty within the banking system, by providing assurances and help in rural housing as well as urban housing, by providing additional support for these efforts with the HOPE for Homeowners Act, this legislation goes a long way to contributing to that stability and that certainty.

Again, I am very pleased to have as my partner in this, as we have on many occasions, my colleague from Alabama, the former chairman of the committee, Senator RICHARD SHELBY, along with the members of my committee who have worked very hard on these matters as well. As I said at the outset, I regret the Durbin amendment is not part of this, but my colleagues have expressed their views on it and that is why it is no longer on this bill.

I know my colleagues have other ideas they wish to offer to this bill. I will include them if I can. If there is some reason I can't, I will explain why. If we can reach some compromise, I will try to do that as well. This is the background of this substitute proposal that Senator SHELBY and I are offering. Again, I wish to move quickly if we can on this. I think it would be an important message to send to the financial sector of our communities that we are stepping to the plate. These are matters that have been before us for some weeks now. They have been waiting patiently for us to move on these matters. We have a chance to do that. That is not to say that other people have ideas that don't have merit, but we have to make decisions about whether to move forward, and my hope is that we will, either by this evening or tomorrow. What better way to conclude this week than to conclude this bill and send a message to the citizens of this country that the Senate of the United States has moved to rise to the challenge of this crisis.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1016 TO AMENDMENT NO. 1018

Mr. VITTER. Madam President, I ask unanimous consent to set aside the pending amendment and to call up Vitter amendment No. 1016 to the underlying bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 1016.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To authorize and remove impediments to the repayment of funds received under the Troubled Asset Relief Program, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. REPAYMENT OF TARP FUNDS.

Section 111(g) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(g)) is amended—

(1) by striking ''Subject to'' and inserting the following:

''(1) REPAYMENT PERMITTED.—Subject to'';

(2) by inserting ''if, subsequent to such repayment, the TARP recipient is well capitalized (as determined by the appropriate Federal banking agency having supervisory authority over the TARP recipient)'' after ''waiting period,'';

(3) by striking '', and when such assistance is repaid, the Secretary shall liquidate warrants associated with such assistance at the current market price''; and

(4) by adding at the end the following:

''(2) NO REPAYMENT PRECONDITION FOR WARRANTS.—A TARP recipient that exercises the repayment authority under paragraph (1) shall not be required to repurchase warrants from the Federal Government as a condition of repayment of assistance provided under the TARP. The Secretary shall, at the request of the relevant TARP recipient, repay the proceeds of warrants repurchased before the date of enactment of this paragraph.''.

Mr. VITTER. Madam President, this amendment is very simple. In fact, it is identical to an amendment I offered to a different bill last week which unfortunately we did not get to vote on because cloture was passed.

This amendment says that under the TARP, if a bank wants to repay its TARP money that it has taken from the taxpayer, with all of the penalties and interests that are relevant, it can do that immediately whenever it wants, as long as it remains perfectly sound and meets all of the liquidity, safety, and soundness requirements that the normal regulators impose on those sorts of institutions. I think that is very commonsensical and straightforward. If a bank wants to repay with interest, why shouldn't it be able to leave the program? That is the guarantee and the promise that was made to banks when TARP was originally instituted. Yet several banks are trying to do that now and are getting a different story: No, no, no, no. This isn't your decision alone. This is our decision, the Government's decision, even if it doesn't impact the safety and soundness of your institution.

Several folks in this institution mirror the concerns of citizens around the country. We are very concerned about the Federal Government getting ever more involved in the business of private business and institutions, in particular, of banks and financial institutions. This is a steady trend that began last September, and it is a very steady trend that the Government is becoming first a junior partner and seemingly a senior partner in more and more significant institutions in our private market. Now we see that it is expanding beyond banks and financial institutions into auto companies, insurance companies, and who knows what next.

Certainly, with all of these legitimate concerns we have about that trend, it should be an established principle of the TARP that if a bank wants to repay the money fully with interest and if that repayment does not impact its safety and soundness, if they meet all of the liquidity requirements put on them by the Federal regulators, they should be able to do that. Yet they are not. They have not been able to do that. Some have. I am very proud to say that IberiaBank, headquartered in Lafayette, LA, was the first bank to apply for repayment and to actually give all of its TARP money back. I am very happy to say that was successfully done. They were followed by six other smaller or regional banks: the Bank of Maine, Bancorp, Old National Bancorp, Signature Bank, Sun Bancorp, Shore Bancshares, and Centra Financial Holding, Inc. All of those banks followed Iberia's lead and gave that money back.

But more recently, unfortunately, the Federal Government has been singing a different tune and has said, Wait, wait. You can't decide this on your own. We are your new partner and we get to decide this, and we are going to decide it on our criteria, even if it is a perfectly reasonable and safe thing to do with regard to your liquidity and

your safety and soundness. That exemplifies what so many of us are concerned about, about expanding government authority.

Let me quote directly from Secretary Geithner. The Wall Street Journal reported an interview recently where he:

> indicated that the health of individual banks won't be the sole criteria for whether financial firms will be allowed to repay bailout funds.

He also testified before Congress in the last few weeks and the bottom line of his testimony was: Stay tuned. We will give you guidelines on how to repay TARP funds in the future. We are not there yet, and we are not—we are certainly not willing to allow banks to make that decision. We are going to make that decision.

I have to say it sort of reminds me of the analogy of businesses that are infiltrated by the mob and they have as their new senior partner the mafia, and all of a sudden, if they want to get out, it is no longer their choice. Their new big brother partner is going to make the calls and is going to decide: No, no, no. We have our claws into you. That is not changing anytime soon.

Is that the new rule we want to establish for private market capitalism? Is that the amount of power and authority we want to give to the Federal Government over private institutions in the private sector? Even when they can repay the money and remain perfectly liquid, perfectly solvent, meeting all of the relevant safety and soundness criteria, do we want to say no, no, no, big brother government says no. We know best.

I am very disturbed by this policy that my amendment is counterpoised to. It does suggest that big government knows best and that big government is going to make the call, apart from the interests of that particular private firm. If that firm meets liquidity requirements, meets all the safety and soundness regulations in sight, then they should be able to do whatever the heck they want to determine their own future, and that includes repaying their TARP money to the government.

I urge all of my colleagues to support this commonsense, reasonable, pro-free market amendment.

AMENDMENT NO. 1017 TO AMENDMENT NO. 1018

Madam President, at this point I ask unanimous consent to set aside that amendment and call up the Vitter amendment No. 1017 to the underlying bill.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Madam President, reserving the right to object, let me say I am going to have to object at some point because we have too long a stack here. This is not aimed at my colleague from Louisiana, but I want to be careful and check with leadership as to how many amendments we can lay aside in terms of what their plans are for this evening and for tomorrow. I won't object to this particular one, but I want to use a moment here to express to my colleague that at some point we will have to put some limitation on this so we can start to grapple with the amendments before us.

I thank the Senator.

The PRESIDING OFFICER. Without objection, the clerk will report.

The bill clerk read as follows:

> The Senator from the Louisiana [Mr. VITTER] proposes an amendment numbered 1017.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To provide that the primary and foundational responsibility of the Federal Housing Administration shall be to safeguard and preserve the solvency of the Administration)
>
> At the appropriate place, insert the following:
>
> **SEC. ___. DUTIES OF THE FHA.**
>
> (a) DUTY TO MAINTAIN SOLVENCY.—Notwithstanding any other provision of law or of this Act, the primary and foundational responsibility of the Federal Housing Administration shall be to safeguard and preserve the solvency of the Administration.
>
> (b) SUSPENSION OF ACTIVITIES.—If in the determination of the Commissioner of the Federal Housing Administration, any existing Federal requirement, program, or law, or any amendment to such requirement, program, or law made by this Act, threatens the solvency of the Administration or makes the Administration reasonably likely to need a credit subsidy from Congress, the Commissioner shall—
>
> (1) temporary suspend any such requirement, program, or law; and
>
> (2) recommend legislation to the appropriate congressional committees to address such solvency issues.

Mr. VITTER. Madam President, I thank the distinguished chairman for his comments and for his forbearance. I will be very brief on this amendment, which goes directly to the bill and is very germane.

This amendment, again, is very simple and very straightforward but I also think very important. It would require that the Federal Housing Administration recognize as its first duty to maintain its own solvency. If the provisions of the underlying bill or any other existing requirement cause the FHA to be reasonably likely to need a credit subsidy from Congress, then it shall require the Commissioner, No. 1, to temporarily suspend any program that is threatening the solvency of the FHA; and No. 2, to recommend legislation to Congress to address those solvency issues.

I commend the motives of the distinguished chairman and others with regard to this bill. Clearly, they are trying to help homeowners in dire need, and there sure as heck are many of them around the country, including my State. But as we walk down this path, I think we all want to be careful that we don't create a new crisis, a new solvency crisis at the FHA. I believe we need to be very aware of that so we don't create another crisis there as congressional and other action has in the past at Fannie Mae, Freddie Mac, and elsewhere.

Recently, on April 23 at a nomination hearing for Mr. David Stevens, who is the designate for housing and Federal Housing commissioner, the person whom President Obama has chosen to run the FHA, I asked how he viewed the health of the FHA mortgage insurance fund and if he anticipated having to ask Congress for a credit subsidy. His answer on April 23 was:

> At the present time, the FHA fund is solvent and meets actuarial requirements. Maintaining that solvency would be a top priority for me.

I am glad to hear that it is solvent as of now but, quite frankly, I don't want that solvency to be a top priority for him; I think it should be the top priority for him. I think we should be very cautious about expanding programs under the FHA if it could lead to a crisis of solvency there which could be a further rattling of the financial markets, just as similar crises have been in the past.

Unfortunately, there are significant signs that the FHA is a ticking timebomb now. According to the Mortgage Bankers Association National Delinquency Survey, for the fourth quarter of 2009 seasonally adjusted delinquency rate, 13.73 percent of FHA loans would present an increase of 81 basis points from the third quarter of 2008.

Similarly, in a report from J.P. Morgan Securities issued in January of this year, it says 70 percent of Ginnie Mae borrowers, those who are FHA borrowers and VA borrowers, would be underwater if home prices drop another 10 percent.

On March 8 of this year, a Washington Post investigation led many observers to view the FHA as a ticking timebomb. The article reports:

> There has been a spike in quick defaults that seem to follow the pattern that preceded the collapse of the subprime market as some of the same flawed lending practices that contributed to the mortgage crisis are now eroding one of the main Federal agencies charged with addressing it.

Of course they were talking about the FHA.

According to the same article:

> More than 9,200 of the loans insured by the FHA in the past 2 years have gone into default after no or only one payment.

So already we see very troubling signs.

On top of that, this bill, in some ways, erodes the stability of the FHA. It does things such as say that an individual receiving assistance under this program must verify their income, providing income tax return information but reducing the upfront fee for the program from 3 percent to 2 percent. It reduces the annual fee from 1.5 percent to 1 percent, and it adds incentives with $1,000 for each loan for folks to enter and service the program.

So I am concerned, No. 1, that the FHA right now shows real signs of a possible future crisis, and No. 2, that

this bill could unintentionally be making that worse and making that day come quicker.

I am not proposing we scrap the provisions of the bill, but my amendment would simply say that the first duty of the FHA is to maintain solvency, and secondly, if the provisions of this bill or any other requirement causes the FHA to be reasonably likely to need a credit subsidy from Congress, the Commissioner has the power to, No. 1, temporarily suspend that program, and No. 2, recommend legislation to Congress to address the solvency problem.

Let's not let the FHA be the next chapter in terms of this financial crisis. Let's not repeat the kinds of mistakes we have seen in other Federal Government or related entities. Let's be careful to avoid that, which would be an enormous rattling of the financial system and which would cause an enormous drop in confidence.

With that, Madam President, I thank the Chair and the chairman for his forbearance, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAMBLISS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Madam President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF DOJ MEMOS

Mr. CHAMBLISS. Madam President, I rise today to express my disappointment with the Obama administration's decision to publicize the memorandums from the Office of Legal Counsel at the Department of Justice. The four memos released by the administration examine whether the CIA's enhanced interrogation techniques would violate U.S. statutes or international agreements prohibiting torture.

It is important to note that all four memos determined that the techniques did not violate U.S. constitutional or international law or U.S. criminal law. It is disappointing that the White House released to the public these highly sensitive memos. There is simply no productive or meaningful purpose in their release.

The memos describe in detail the CIA's interrogation program, the specific techniques that were used, psychological evaluations of detainees, and even detailed descriptions of some of the detainees themselves. All of this information raises questions about how seriously the President believes in protecting our national security as well as the confidentiality of legal counsel and the privacy of individuals. I believe the only reason the Obama administration chose to release these memos was for perceived political gain, and I also believe, based upon what I have heard in my home State, that the political gain has backlashed.

I think if Americans read these memos for themselves, they will agree that after the 9/11 attacks, the CIA program was necessary to detect and prevent additional American deaths. The program was designed to exploit information held by only the most senior, hardened, and dangerous al-Qaida figures who had perishable information about the attack's planning.

Since its inception in early 2002, fewer than 100 individuals were held in this program, which had significant safeguards, including detailed assessments to determine that the detainees were senior members of al-Qaida—not mere foot soldiers—who likely had actionable intelligence on terrorist threats and who posed a significant threat to U.S. interests before the CIA could detain them.

Out of the 100 or so detainees the CIA has held, only 3 were subjected to the most serious, yet legal, interrogation techniques. Those three were Khalid Shaikh Mohammed, the mastermind of the September 11 attacks, whose deadly plan resulted in the murder of some 3,000 innocent Americans; secondly, Abu Zubaydah, a senior member of al-Qaida, whom the CIA assessed to be the third or fourth ranking member of the terrorist group and who had been involved in aspects of every al-Qaida attack against America; and thirdly, Abd al-Rahim al-Nashiri, a key al-Qaida operational planner. Information obtained from these three detainees saved American lives by disrupting al-Qaida attacks and led to the capture or arrest of even more terrorists. These detainees, who have been in the inner circle of al-Qaida and who have occupied some of the most important positions in that group's hierarchy, held information that simply could not have been obtained from any other source.

In fact, the memos reveal some of the invaluable information we have gained from the CIA program. This includes prevention of numerous terrorist attacks, such as the west coast airliner plot, which sought to replicate the hijacking of airplanes and crash them into buildings on the west coast of the United States.

One memo describes the discovery of this plot by stating:

> The interrogation of KSM—
>
> Which is Khalid Shaikh Mohammed—
>
> —once enhanced techniques were employed, led to the discovery of a KSM plot, the ''Second Wave,'' to use East Asian operatives to crash a hijacked airliner into a building in Los Angeles.

The same memo describes how interrogations provided information on two operatives who planned to build and detonate a dirty bomb in the Washington, DC, area. There is no doubt that the disruption of these attacks has saved American lives.

CIA detainees have also confirmed that al-Qaida continues to operate against the United States and its allies. Just recently, a statement from none other than the Director of National Intelligence, Dennis Blair, acknowledged that the high-value information came from this same CIA interrogation program and that al-Qaida continues to plan attacks against America.

As a member of the Senate Intelligence Committee, I have seen CIA assessments on the value of information the United States has gained from interrogations as well as intelligence on the continuing resolve of al-Qaida to attack the United States and to attack its citizens. However, much of this information remains classified, so only half of the story is being told. It is important that Americans have an opportunity to see what they were protected from as a result of the CIA interrogations—interrogations that were not only effective but were deemed by the Justice Department not to be torture under U.S. and international law.

The CIA's High Value Terrorist Detainee Program was a crucial pillar of U.S. counterterrorism efforts and was the largest source of insight into al-Qaida for the United States and its allies. Now, as a result of the release of these memos, the program is the largest source of information on U.S. operations to al-Qaida and our other enemies.

The administration claims it released these memos in an effort to be transparent, but the only transparency it has provided is to al-Qaida. The group now knows the outer boundaries of what the United States is capable of doing and that we are no longer using these methods or any others for interrogation.

Our enemies—traditional enemies and terrorists—now know that some interrogation methods were 100 percent effective on our own soldiers when used in what is called SERE training. I can only imagine how delighted our enemies are to learn how to gain secrets from our soldiers. However, I am sure our enemies will not have the same safeguards, medical and otherwise, in place when they conduct interrogations on our men and women in uniform who might be captured.

While giving transparency to al-Qaida and our other enemies, the release of these memos will deprive this administration and all future Presidents from receiving candid advice from Justice Department lawyers.

The Office of Legal Counsel is supposed to provide the President and the executive branch with thorough and frank legal analysis on a variety of topics. If these talented attorneys have to worry that their confidential and often classified legal advice is going to be released to the public and could result in their prosecution, I guarantee you they will not be able to offer the most straightforward opinions and alternative legal analysis necessary to guide policy. Instead, policy will now guide these lawyers' advice.

Finally, it is disingenuous for Members of Congress to say they were unaware of the CIA program. From its inception, CIA lawyers repeatedly obtained legal guidance regarding the program from the Department of Justice, as one can see from the four classified memos released and from other unclassified memos previously released. The CIA briefed congressional leaders early on about the details of the program and the specific interrogation techniques that could be used.

As a member of the Senate Intelligence Committee, I was aware that the CIA was holding high-valued detainees and was gaining extraordinary insight into al-Qaida's structure and operations. Also, information about the program was leaked to the public and press. Reports about it started to circulate as early as 2005. Yet Congress continued to fund the program for several years afterward.

In fact, as the vice chairman of the Senate Intelligence Committee noted, the fiscal year 2007 intelligence authorization bill included language which specifically acknowledged that the CIA's program had been important in collecting valuable intelligence on al-Qaida operatives and associates and on planned terrorist attacks against the United States and our allies.

This bill was voted out of the Senate Intelligence Committee unanimously by a 15-to-0 rollcall vote. I hope that in the future this administration places more emphasis on protecting our national security rather than on placating critics of the rules the United States used to prevent another attack on our domestic soil.

Madam President, I yield the floor and suggest the absence of a quorum. I am sorry, I did not see the Senator from South Carolina. I do not suggest a quorum call.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 1026

Mr. DEMINT. Madam President, in a moment I would like to bring up an amendment, but in deference to Senator DODD, I wish to wait for him to be back on the floor. In the meantime, I would like to explain amendment No. 1026 and talk about it briefly until the Senator returns.

We are all well aware of the bailout bill that was passed last October. It had one purpose, at least as that purpose was described to us, and that was to purchase what they called toxic assets that were clogging up the credit system. That $700 billion was then used in other ways, and I believe unconstitutionally, to loan money to banks, insurers, auto companies, and to actually turn those loans into preferred stock, in some cases.

It now appears the administration is going to take this a little bit further. We have seen the hiring and firing of executives. We have seen the Government, in effect, break contracts that were established in the private sector. We see the Government continuing to use this TARP money to gain more and more control over private sector industries, particularly the financial industries.

The administration appears now to have a plan that would swap this loan money in the form of preferred stock for common stock, which means we not only own but we have voting rights and, in some cases, controlling interests in General Motors. My amendment addresses specifically financial institutions, but we are talking about financial, auto companies, and other aspects of our economy using this TARP money in ways that were totally different than we ever imagined.

My amendment addresses specifically banks. It would prohibit the Federal Government from converting preferred stock to common stock and basically taking ownership and control of banks across the Nation.

Many banks that participated in the TARP funds suggest they were pressured to take it when they did not need it. Many banks now say they would like to give it back, and they are not allowed to give it back. We need to back the Federal Government out of our private sector financial system and set up a good system of laws and regulations so it can work in a way that is transparent, honest, and good for the American people. But we don't need the Federal Government to own our banks and to try to run the day-to-day business in our banks, just like we do not need the Federal Government to own General Motors and to run General Motors.

My amendment would address, specifically, the financial institutions in our country and prohibit the use of TARP funds to be translated into common stock ownership and voting rights.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DEMINT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEMINT. Madam President, I would like to bring up amendment No. 1026.

Mr. DODD. Madam President, it will take unanimous consent to temporarily lay aside the pending amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DODD. Madam President, reserving the right to object, I say respectfully to my colleague and friend from South Carolina, a member of the Banking Committee, reluctantly I will object to that request at this point. We have amendments pending, and I will explain, as I did to him, the detail. At this very moment, I respectfully and reluctantly object to temporarily laying aside the pending amendment.

The PRESIDING OFFICER. Objection is heard.

Mr. DEMINT. I thank the Senator and yield the floor.

Mr. DODD. Madam President, as I said a moment ago, we already have a lot of amendments filed on this bill. I can tell my colleagues and those who are following this debate, this bill is critically important to our financial institutions. They have been waiting weeks for this bill that Senator SHELBY and I put together. I am not, in any way, suggesting the amendments being offered are not motivated by the best of intentions, but the net effect of it is to virtually bring down this bill. I say to my colleagues, I know they are hearing from others across the country who have been waiting for this bill to come up, to be considered, and moved along. There is no way we can spend the amount of days now that may be confronting us with the list of amendments to go forward.

The leadership—and I agree with them on this—needs some clarity. If I am going to be faced with a stack of amendments being offered, then I am going to have to, as the leadership said, take this bill down and maybe in the fall at some future date get back to it, if at all.

That is a tragedy and unfortunate because it is an important matter. It is widely supported across the country. It is essential in many ways we get it done. I wish for my colleagues to know it is not aimed at any particular amendment. It is not suggested their amendments are not well motivated. But when you load up a bill such as this with that many amendments, it makes it impossible to get the job done.

I objected to laying aside the pending amendment because we have several amendments now pending. We will try, over the coming day or so, to see if we can resolve some of those amendments, maybe accept some. I have to speak with, of course, my colleague from Alabama, Senator SHELBY, to see if there is agreement on some of the matters or some modification to make them acceptable.

I suggest to my colleagues, any additional people coming over to temporarily lay aside the pending amendments, that I will object to doing that until we get clarity and try to clear out the underbrush to determine whether we bring down the bill, which I will do, or to get a reasonable number of these amendments which we can handle to go forward. One or the other.

For those who are following this debate, the possibility of this bill being taken down is very real. I hope those who are interested in this bill will notify their respective Members who wish to offer amendments and suggest there may be a better time for those amendments to be offered.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MERKLEY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH). Without objection, it is so ordered.

Mr. MERKLEY. Mr. President, tonight I rise to speak on the Dodd-Shelby legislation and specifically on my amendment, No. 1015, which is at the desk.

First, I commend my chairman, the distinguished Senator from Connecticut, for his work on this legislation. This legislation will take important steps in addressing the very heart of our economic crisis, the housing market. But we can do more.

Tonight I rise to offer an amendment that will put an end to the deceptive and unfair mortgage practices that played a pivotal role in steering American families into accepting risky and unsustainable mortgages. As I have discussed before, two key factors drew families into unsustainable mortgages and paved the way for this recession. First, steering payments were paid to brokers who enticed unsuspecting borrowers into deceptive and expensive mortgages. These secret bonus payments, called yield spread premiums, turned home mortgages into a scam.

A family would go to a mortgage broker for advice in getting the best possible loan. The family would trust the broker to give good advice because, quite frankly, they were paying the broker for that advice. But what the borrower did not realize was that the broker would earn thousands of bonus dollars from the lender if the broker could convince the homeowner to take out a high-priced mortgage such as one with an exploding interest rate rather than a plain vanilla 30-year fixed-rate mortgage.

Prepayment penalties added insult to injury. After the homeowner realized he or she had been steered into an unsustainable mortgage, the homeowner soon discovered that a large prepayment penalty made it too costly for them to refinance into a lower cost loan. The homeowner was locked into a destructive mortgage. This scam had tremendous impact.

A study for the Wall Street Journal found that 61 percent of the subprime loans originated in 2006 went to families who qualified for prime loans, meaning that millions of American families were placed at risk. This is simply wrong—a publicly regulated process designed to create a relationship of trust between families and brokers but that leaves borrowers unaware of payments that place them in expensive and destructive mortgages.

I call my colleagues' attention to a New York Times editorial published on April 10 entitled ''Predatory Brokers,'' which highlighted this problem. The editorial pointed out a study by the Center for Responsible Lending that found that subprime borrowers who used a broker actually fared worse than those who went directly to lenders. Those borrowers paid $17,000 to $43,000 more for every $100,000 they borrowed. That is outrageous.

The Times concluded:

> The first step must be to outlaw the kickbacks that lenders pay brokers for steering clients into costlier loans.

The editorial went on:

> The most clearly unethical form of payment is the so-called yield-spread premium.

It is difficult to overestimate the damage that has been done by these expensive loans and secret steering payments. An estimated 20,000 Oregon families will lose their homes to foreclosure in 2009. Nationwide, an estimated 2 million families will lose their homes this year, and the total of foreclosed families is predicted to reach 9 million by 2012.

These practices didn't only hurt families on Main Street, they were also the prime enablers for the propagation of destructive subprime collateralized debt obligations, or CDOs, that have now brought Wall Street to its knees. Had these procedures been banned—steering payments, prepayment penalties—Wall Street would not have been able to engineer the tremendous bubble on the backs of unsuspecting homeowners and, accordingly, would not have had the billions in write-downs that caused this credit crisis and sent our economy into a terrible recession.

The problem is simple and the solution is simple. The costs of doing nothing are tremendous both for homeowners and for the financial system. By banning steering payments and prepayment penalties, this amendment will restore transparency to the mortgage lending process and help make home ownership a stable investment for families once again.

The time has come for us to make sure that secret steering payments and paralyzing prepayment penalties never again haunt American families.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I want to begin by commending our colleague from Oregon for this proposal. We have had a chance to talk about it, and he is exactly right. He described it more adequately as to what happened, what goes on, what went on, that contributed so much to the overall economic mess we are in today. This is where it all began. This was not a natural disaster that occurred like Katrina, an act of God. These were intentional decisions made by people to abuse purchasers, borrowers, luring them into financial situations where they were fully aware that borrower could never meet the fully indexed cost of that mortgage as it matured.

In fact, I recall one of the early hearings we held in 2007, the Web site of the brokers. The first piece of advice to a broker was: Convince the borrower that you are their financial adviser.

Not that you were their financial adviser, but to convince them that you are so that you can then engage them in such a way as to convince them to enter arrangements that they could hardly afford. As we now know from a number of different studies, somewhere between 60 and 65 percent of the people who ended up with subprime mortgages actually qualified for conventional mortgages.

For those who may not understand the differentiation, the cost of a conventional mortgage is substantially less than a subprime mortgage.

The Presiding Officer, the Senator from Alaska, spent a good part of his career in this business, so he knows firsthand how all of this works and appreciates the proposal by our colleague from Oregon. Yield spread premiums were one of the key causes of the current crisis because these premiums create incentives for brokers to upsell borrowers; in other words, to convince them and to draw them into arrangements that would be more costly because that is how they got paid. It was nothing more complicated than that. You got a better fee if you could convince someone, talk them into a situation that cost the borrower more. The borrower could never meet those obligations, particularly people on fixed incomes.

One of the first witnesses I ever called before the committee as chairman in 2007 was a woman from Chicago whose husband had passed away. She worked for 30 or 40 years, had retired, was living in a home that she and her husband had bought years before, had $3,000 of consumer debt. A broker convinced her that she needed to refinance that home to meet that obligation. Of course, the fully indexed cost of that mortgage blew through her fixed income as a retiree. She came very close to losing the home. We stepped in. The bank stepped up, was embarrassed by what it had done. She ended up keeping the home but only because, candidly, she was a witness before a Senate committee. Had she been out there in Chicago without any other recognition or notoriety, I am not sure she would have fared as well as she did when she achieved some notoriety in appearing before the committee.

The bank in question was sitting at the table next to her, so they decided to work it out in her case. But literally hundreds of thousands of people across the country were not so fortunate. Again, they were lured into these arrangements our colleague has talked about.

I thank him for his amendment. We have had a lot of discussions about this matter. In the last Congress we put together a whole bill on predatory lending, and yield spread premiums was one of the key provisions.

What I would like to suggest, if he would be amenable, this is a matter that needs to be revived. We had a hearing almost 2 years ago now so it has gotten a little dated in terms of

the information. As chair of the committee, I would like to ask him, as a new member, whether he would be willing to chair a hearing on the subject matter of predatory lending, including yield spread premiums, and arrange that in the coming weeks. My intention would be that as we move forward to deal with the modernization of financial regulations, that this is an area we will want to include as part of our consideration of that larger bill.

I, for one, would look forward to some specific ideas that we could use to address this kind of problem. I thank him for bringing the matter to our attention this evening. I look forward to working with him on this matter as well.

Mr. MERKLEY. Mr. President, I deeply respect and appreciate the fact that the chairman has done so much to bring public attention to these important issues over the past several years. I would be delighted and honored to have the opportunity to assist with hearings as described on predatory lending and to refresh this conversation about how we, as a Congress, can reach out and assist working Americans to make sure that in the future they will not find that the dream of home ownership is turned into a nightmare, as it has been through steering payments, through prepayment penalties for so many in the near past. I would be deeply honored.

Mr. DODD. I thank our colleague. He is, obviously, very knowledgable about this area, as is the Presiding Officer. It is tremendously important in this body. My two colleagues are relatively new Members, but believe me, they could not be here at a more opportune time with their backgrounds and experiences for this debate and discussion.

As a senior Member, I welcome their presence in the Senate. I look forward to working with our colleague from Oregon and to include his idea as part of a larger bill on predatory lending.

Mr. MERKLEY. I thank the Senator from Connecticut.

Mr. DODD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THUNE. Mr. President, I ask unanimous consent to call up amendment No. 1025 to the pending bill, and I ask that amendment be made pending.

The PRESIDING OFFICER. Is there objection?

The Senator from Connecticut.

Mr. DODD. Mr. President, reserving the right to object—and I said to my friend, this is not a personal matter—we are trying to get a finite list of the amendments and get time agreements on all of them. I have had to object to other amendments being offered—laying aside temporarily the pending amendments—both on the minority side as well as the majority side. It is with reluctance, I say to my friend, that I will have to object.

My hope would be that he would let us have the amendment and the arguments, and so forth, so we could take a look at it—Senator SHELBY and I. If we could agree in some way or work on something together so we could possibly accommodate him or give him a clear indication of some time so we can debate it and discuss it and go forward, that is my intention.

With that, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THUNE. Mr. President, if I might speak to the amendment for a few moments.

I offered a similar amendment last week to the fraud recovery bill and was told at the time—and, of course, cloture ultimately was invoked on that bill, and I was told it was not germane. So it fell postcloture.

In order to make it germane to this underlying bill—in fact, I was told at the time last week, when I brought it up, it would be germane to the housing bill, which would be considered next. So I decided I would offer this amendment again. But running into the same sort of question about whether this amendment would be germane postcloture, I have adapted the amendment so it is germane to the underlying bill.

I will tell you, I would have preferred keeping it in its original form because, essentially, it would have taken TARP moneys repaid to the Federal Treasury by lending institutions and applied them to debt reduction. That was the amendment in the form it was in last week when I offered it to the fraud recovery bill. I still think that is a good, sound idea: As TARP funds are paid back into the Federal Treasury, rather than being recycled or used on some other Government program, we apply it to debt reduction.

Lord knows we are spending and borrowing enormous amounts of money. The least we could do when these moneys are paid back is put them toward paying down the Federal debt so we are not handing this enormous—enormous—bill to our children and grandchildren.

But, as I said before, in order to get this amendment in a form that it would be germane postcloture, I have revised it. I will describe it in a minute. But I wish to start by saying, on October 7, 2008, we all know Congress passed the Troubled Asset Relief Program, or TARP, as part of the Emergency Economic Stabilization Act. It authorized $700 billion for the purchase of toxic assets from banks, with a goal of restoring liquidity to the financial sector and restarting the flow of credit in our markets.

The Department of Treasury, however, without consultation with Congress, changed the purpose of TARP and began injecting capital into financial institutions through a program called the Capital Purchase Program, or CPP, rather than purchasing toxic assets.

Financial lending was not increased with the implementation of the CPP and the expenditure of $218 billion of TARP funds, despite the goal of the program.

Those receiving funds through CPP are now faced with additional restrictions related to accepting those funds. A number of community banks and large financial institutions have expressed their desire to return those CPP funds to the Department of Treasury. Treasury has, in fact, begun the process of accepting receipt of these funds. However, because of the financial stress test Treasury is currently conducting, it is possible Treasury will restrict some banks from returning funds they received from the CPP.

I mentioned last week when I offered the amendment to the fraud recovery bill that there were banks I was aware of that were not able at the time to return funds to the Treasury. They were told they couldn't. They had money from the TARP, they were banks that were in good financial standing, and they wanted to pay back that TARP money and couldn't do it. I believe now, at least, the Treasury is working with a number of banks to try and receive some of these monies that the banks want to pay back, but it is entirely possible, because of these stress tests, that some banks will be restricted from returning funds they received from the CPP.

In his testimony before the TARP congressional oversight panel on April 21, 2009, Secretary Geithner stated that Treasury estimates $134.6 billion of TARP funds are still available. What is interesting about that number is that in that figure, he includes $25 billion they expect to receive back from banks under CPP. Geithner also stated he believes that $25 billion is a conservative number and that private analysts, of course, are predicting that more—much more—is going to be returned. But the important point is that of the $134.6 billion that Treasury Secretary Geithner referred to in terms of TARP funds that will be available, $25 billion of that is in the form of payments they expect to receive back from banks under the CPP.

So my point is there is money coming in, and rather than using that to pay down the debt, which I think many of us assumed was going to be the use of those funds if they came back in, that they are sort of planning on, it looks like, recycling back into TARP or, perhaps—I hope not but perhaps—using them for some other purpose.

Section 120 of the Emergency Economic Stabilization Act terminates the authority for TARP funds on December 31, 2009, and the Secretary can request an extension to that deadline not later than 2 years after enactment, which would be October of 2010. But keep in

mind, that restriction only applies to Treasury's issuance of new loans and does not cover the reuse of previously issued assistance that was returned to the Treasury. So there is no prohibition on the Treasury using these recycled TARP funds.

The TARP Reduction Priority Act, which is the subject of my amendment, reduces TARP authority by any amount returned by a financial institution to Treasury. So instead of having TARP monies that are returned from the banks back into the Treasury applied to debt reduction, what I do now with this amendment—in order to have it fit within the confines of this bill and to remain germane should, in fact, cloture be invoked—is reduce the TARP authority by whatever amount is returned by a financial institution to the Treasury. In other words, the TARP amount—the amount that would be available for lending under TARP—as it is paid back, monies come back from the banks, the TARP lending amount is reduced commensurate with the amount that is returned, so that those monies cannot be recycled. Once they have been out there and returned by the banks, they can't be recycled and reused or put to some other purpose.

Let me also say that until the December 31, 2009 expiration date, and possibly longer—again, if the Secretary is granted an extension—that without this legislation, Treasury can continue to use TARP funds, including those repaid in any manner they see fit. It is certainly not what Members of Congress envisioned when this legislation passed last year. These are taxpayer dollars. They should not become a discretionary slush fund for the administration. Under the Constitution, Congress controls the power of the purse, and I, as do many Members of Congress and others around the country, have major concerns regarding the Treasury's handling of TARP funding. If the new administration, the Obama administration, or the Treasury Department believes it needs additional funding to address problems in the financial sector, they should come to Congress for that authority.

Inspector General Neil Barofsky stated in his quarterly report to Congress that there are 12 separate programs being funded under TARP involving up to $3 trillion of government and public funds. Amazingly, that is the equivalent amount of the size of the entire Federal budget. It certainly wasn't what Congress was told the funding would be used for.

Mr. Barofsky also mentioned in his April 4, 2009 CBO report—he estimated that TARP would cost the Federal Government $356 billion, meaning that the Treasury will only be able to recover $344 billion or approximately 49 percent of the $700 billion that was originally allocated by the Congress.

When this program was initially pitched to Congress—and my colleagues in the Senate should remember—Secretary Paulson at the time argued that the Government would end up making money once those toxic assets were sold after the economy recovered. Clearly, this is no longer the case. Barofsky's report spans 247 pages. It says the very character of the bailout program makes it:

> Inherently vulnerable to fraud, waste, and abuse, including significant issues related to conflicts of interfacing fund managers, inclusion between participants, and vulnerabilities to money laundering.

So again, the point of the amendment is very simple; it is very straightforward. All I am trying to do is to make sure the TARP funds, as they come back in, when they are repaid by banks, are not recycled, they are not reused, they are not put into some program which the inspector general says in his report is inherently vulnerable to fraud, waste, and abuse; that it actually be used to reduce the amount of the TARP authority. It is the best solution we could come up with short of applying those repaid funds to deficit or to debt reduction which, as I said, was the original form of this amendment, but under the rules of the Senate, to make sure it is germane, this is the approach we have selected. I think it accomplishes the same purpose. It makes certain that the monies that come back in, that are paid back by banks that have received TARP funds are not reused, reallocated, put into some other purpose or some other fund, but it actually is reducing the amount of TARP authority that is available to be used and, therefore, protecting taxpayer interests and taxpayer dollars that were extended under this program in the first place.

So I hope my colleagues, when they are making final determinations about which amendments are going to be on the so-called list—and it seems to me, at least, that on a bill such as this, a housing bill, it ought to be wide open to amendments and we ought to be able to get votes on some of these amendments but evidently the leaders on the other side have concluded they are going to limit those amendments and try to come up with some finite list—I hope they will include this amendment on that list. I think it makes sense. It is perfectly fitting with the purpose of the underlying bill, which is a housing bill.

TARP funds, of course, were supposed to deal with the credit crisis, the housing crisis, and I would hope this amendment would be one that the other side, as they make those decisions about which amendments are going to be allowed to be debated and voted on with respect to the base bill, that this amendment will be on that list. I think it makes a lot of sense.

I hope some of the other amendments my colleagues have offered also will be allowed to be voted on. I think that is the way the Senate is intended to work and to function. All Members of the Senate are supposed to be able to come to the floor and offer amendments and have those amendments debated and voted upon. It seems to me that sort of arbitrarily putting in place a construct that limits amendments and picks and chooses ones that get voted on does not represent the heritage and the tradition of this body. I hope my colleagues who are managing the bill on the floor will decide what I think is in the best interests of this institution, and that is that these amendments all be offered, be debated, and be voted on, and I hope this certainly is the case with the amendment I put before the Senate right now.

With that, I yield back the balance of my time and I hope this amendment can be made pending and get voted on whenever we get back on the underlying bill.

Mr. GRASSLEY. Mr. President, it is no secret that I have worked for decades to bring greater transparency and accountability to all facets of government operations. If there is one thing that I have learned over those years it is that you cannot achieve the goal of greater transparency and accountability without access to information.

During this financial crisis, we hear daily about the need for many more billions in Federal funds to save this bank or that financial firm. In response to the crisis the Treasury Department is buying stakes in banks and other companies. That program is known as the Troubled Asset Relief Program or TARP. It is costing the American taxpayer nearly three quarters of a trillion dollars. Transparency and accountability has never been more important than with a program that big.

In an effort to provide some accountability to the American people for TARP funds, the Government Accountability Office, GAO, the investigative arm of Congress, was required by legislation to conduct oversight of the TARP program.

The GAO's mission is to look at the overall performance of the initiative and its impact on the financial system. The GAO is also required to prepare regular reports for Congress.

However, GAO cannot do its job effectively without access to information about how the funds are used. This should be obvious. Unfortunately, however, the bill that created the TARP and told GAO to oversee it, did not give them the authority to access books and records of the private firms that receive TARP money.

In January, Senator BAUCUS and I introduced a bill, S. 340, to provide the GAO the ability to access the books and records of firms who received money from the TARP. Senator SNOWE is also a cosponsor of the bill, known as the TARP Enhancement Act. Unfortunately, my colleagues on the Banking Committee have not yet taken any action on the bill.

Amendment No. 1020 is simply the text of S. 340. It would ensure that companies that receive assistance from the American taxpayer are required to

cooperate with requests for information from the Government Accountability Office about how they used taxpayer money.

The GAO is supposed to be the ''eyes and ears'' of Congress. Well it can't do that job wearing blinders and ear plugs. So I urge my colleagues to support amendment No. 1020, to ensure that GAO has access to TARP recipients' books and records.

Mr. President, in March the Finance Committee held a hearing on the progress and oversight of the Troubled Assets Relief Program, TARP. At that hearing, we heard testimony from acting Comptroller General, the head of the Government Accountability Office, GAO. He testified that in addition to the problem that S. 340 is intended to fix, there is another major gap in GAO's access to information about the TARP. It is not just firms that take taxpayer money who can say ''no'' to GAO's requests for information. The Federal Reserve can too.

The GAO is prohibited by law from auditing the the Federal Reserve. Perhaps that restriction was defensible back when the Federal Reserve focused on monetary policy. However, today it is routinely exercising extraordinary emergency powers to subsidize financial firms far above the levels Congress is willing to authorize through legislation. The Federal Reserve is taking on more and more risk in complicated and unprecedented ways. That risk is ultimately borne by the American taxpayer, but the elected representatives of the taxpayers have not had a say in the Federal Reserve's activities or even a reasonable level of transparency to make sure we understand how much risk taxpayers are on the hook for.

The GAO testified at our hearing that the Federal Reserve is heavily involved in two new TARP programs announced since March of this year. It is also responsible for managing huge portfolios of troubled assets it took on in the bailouts of Bear Stearns and AIG. According to GAO testimony, as of March 27, 2009, Treasury has announced initiatives that are projected to use $590.4 billion of the $700 billion in TARP funds authorized by Congress. However, the projected assistance in these initiatives by the Federal Reserve could be up to $2.9 trillion by GAO estimates. In addition, the Federal Reserve has a variety of other facilities it has established to address the financial crisis adding up to another $1.5 trillion.

Despite these enormous numbers, there is a statutory limitation prohibiting GAO from examining the Federal Reserve. That provision is now in direct conflict with the mission that Congress gave GAO to monitor and report on the TARP.

Amendment No. 1021 would fix this conflict by allowing the GAO to provide Congress a complete and independent view of all the TARP programs, including those with Federal Reserve involvement, such as the Term Asset Loan Facility, TALF, and the Public Private Investment Partnership, PPIP. It would also allow the GAO to examine other extraordinary Federal Reserve actions, such as its acceptance of risky assets from Bear Stearns and AIG.

I urge my colleagues to support amendment No. 1021. Let's not give GAO an important mission to do with a blindfold on. Let's take off the blindfold and let the professionals at GAO take a good hard look on behalf of the American people at what the Federal Reserve is doing.

MORNING BUSINESS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PARTY AFFILIATION CHANGE

Mr. REID. Mr. President, I have a letter addressed to the Vice President from Senator SPECTER notifying the Senate of his decision to switch his party affiliation from Republican to Democrat and that he will now caucus with Senate Democrats. While the letter is dated April 29, it was just received today, Thursday, April 30. I ask unanimous consent that the letter be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, April 29, 2009.

The Hon. JOSEPH R. BIDEN, Jr.,
Vice-President and President of the U.S. Senate, Washington, DC.

DEAR VICE-PRESIDENT BIDEN: I write to inform you that I will be changing my party affiliation from Republican to Democrat. I will be caucusing with the Democrats, effective immediately.

Sincerely,

ARLEN SPECTER.

HONORING OUR ARMED FORCES

CORPORAL WILLIAM CRAIG COMSTOCK

Mr. PRYOR. Mr. President, today, I come to the floor to honor Cpl William Craig Comstock of Van Buren, AR. His life and service to our country embody the full measure of the Marine Corps motto, ''Semper Fidelis,'' meaning ''always faithful.''

We lost Corporal Comstock when he paid the ultimate sacrifice while serving in Iraq's Anbar Province. Comstock was on his second tour with the 2nd Supply Battalion, Combat Logistics Regiment 25, 2nd Marine Logistics Group, II Marine Expedition Force, Camp Lejeune, NC. Working as an ammunition technician on his first tour in Iraq, he earned a Purple Heart for his bravery after sustaining a gunshot wound in the knee. Ever faithful to his Corps, he volunteered in January to return to Iraq a second time. He told his family he wanted to make that sacrifice for his fellow marines who he knew were eager to return home to see their own.

Coporal Comstock was loved by many. Those who knew him remember him for his wide smile, independent spirit, and warm heart. He was proud to be a U.S. marine, and the Marines were proud to have him. His awards include the Sea Service Deployment Ribbon, the Iraq Campaign Medal, the Global War on Terrorism Service Medal, and the National Defense Service Medal.

Even before joining the Marines, family, colleagues, and friends say Coporal Comstock lived by the ''Semper Fidelis'' motto. As an Alma High School football star, he played on despite an injured shoulder, refusing to let his teammates down. One of his football teammates, Nick Harrison, will graduate from Marine Corps basic training next month. Harrison's mother said it was Coporal Comstock that inspired her son to enlist.

Coporal Comstock was a loyal teammate to his fellow U.S. marines and planned to make a career in military service. Coporal Comstock's memory will live on through his friend Nick Harrison and others like him who selflessly serve our country in Iraq and Afghanistan. We are grateful for his service and my prayers are with his family during this difficult time.

A DECADE OF INACTION

Mr. LEVIN. Mr. President, last Monday marked the tenth anniversary of the tragic shooting at Columbine High School. The prior Thursday was the second anniversary of the tragic shooting at Virginia Tech. These horrific anniversaries have become far too common. Since the shooting at Columbine, I have spoken regularly on the Senate floor about the pressing need for common sense gun safety legislation. Unfortunately, Congress has failed to act.

Even a decade later, the very mention of Columbine High School strikes a nerve with those who hear it. Many of us can still recall with eerie detail the chaotic scenes of hundreds of terrified children running from their school as SWAT-teams descended on the building, searching for two adolescents who, before taking their own lives, murdered 12 innocent students, a teacher, and wounded two dozen others.

In the years that have followed, those closest to the event have recounted how they are constantly reminded of that day by the fragments of ammunition in their bodies or the physical scars from wounds suffered that day. Many victims have described shuddering at the sight of a trench coat or being instantly transported back to the incident from the sound or smell of fireworks. The physical and emotional pain these victims have endured should be intolerable to us. Yet

Congress has refused to take the necessary steps to prevent it.

Our Nation suffers from a horrific epidemic of gun violence. Over 30,000 Americans die from firearms every year, nearly 12,000 of which are homicides. That is an average of 32 gun murders every day, the same number killed at Virginia Tech. While we all hope and pray that these types of public tragedies do not happen again, the truth is that the threat of gun violence has not diminished.

Gun violence is preventable, however, it requires action. Without action, gun violence will continue to be found in our high schools, universities, religious institutions and our homes. For too long, victims and their families, educators and police officials around this country have cried out for sensible gun legislation that would keep guns out of the wrong hands, close the gun show loophole, reauthorize the assault weapons ban and aid law enforcement agencies in tracking gun traffickers. Passage of such legislation would serve as monumental steps toward ensuring these types of tragedies do not continue. Congress must do everything possible to reduce the level of gun violence in America.

ASIAN PACIFIC ISLANDER AMERICAN HERITAGE MONTH

Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to the millions of Asian Pacific Islander Americans for their significant contributions and service to strengthen this great Nation, and to join the Nation in celebrating Asian Pacific Islander American Heritage Month.

This month-long tribute would not be complete without recognizing the visionaries who founded Asian Pacific Islander American Heritage Month: U.S. Senator DANIEL INOUYE, former U.S. Senator Spark Matsunaga, former Secretary of Transportation Norman Y. Mineta, and former U.S. Representative Frank Horton. As a result of their steadfast leadership, a joint resolution established Asian Pacific Island American Heritage Week in 1978, and the celebration was later expanded to an entire month in 1992.

This celebration takes place in May to mark the first Japanese immigrants' arrival in America in 1842, as well as the completion of the Transcontinental Railroad in 1869—which would not have been finished without the hard work and dedication of Chinese laborers.

Today, our Nation faces its trials and tribulations as it sees harsh economic times. People throughout the country are losing their homes and their jobs and we must come together as a community and remain strong and dignified. The Asian Pacific Islander American community constitutes one of the fastest growing minority communities in the United States, with over 13 million Asian Pacific Islander Americans in the country. Despite these economic hardships, members of the Asian Pacific Islander American community have continued to take positions of leadership and have worked hard to secure a brighter future for all.

Asian Pacific Islander Americans are making great strides both in the private and public sectors. Members of the Asian Pacific Islander American community have been named to key appointments in President Barack Obama's administration and at other levels of government. As Asian Pacific Islander Americans advance to positions of power and leadership, we can ensure that the voice of the community is being heard.

While we celebrate the many accomplishments and the promising future of the Asian Pacific Islander American community, we must not forget the history of Asian Pacific Islander Americans in this country. The Angel Island Immigration Station has a significant place in Asian Pacific Islander American history. Declared a National Historic Landmark in 1997, Angel Island served as the entry point in the West for over 1 million immigrants from 1910–1940. This includes approximately 175,000 Chinese immigrants who were detained at Angel Island before they were granted entry to San Francisco. Along with Representative LYNN WOOLSEY, I sponsored the Angel Island Immigration Station Restoration and Preservation Act, which passed in both the House and the Senate in 2005, authorizing $15 million of federal funds for the Angel Island Immigration Station Preservation Project. After 3½ years since it was closed for restoration, Angel Island reopened this February and will educate the public about the immigration experience and the significance that it holds for many immigrant families today.

After the recent passage of the American Recovery and Reinvestment Act of 2009, benefits were finally granted to long-time Filipino veterans of World War II. The act recognizes the service of these veterans and includes a provision which allocates $198 million to the Filipino veterans for their defense of the Philippines, a commonwealth under the United States during World War II. We must praise and commend these brave soldiers for the sacrifices they made during their service in the Armed Forces.

The idea of family is important to Americans and continues to be at the center of the Asian Pacific Islander American value system. It is imperative that we do what we can to keep families united to ensure that immigrants and children receive the support to sustain a livelihood in the United States.

I have continued to support immigration initiatives, such as comprehensive immigration reform and have supported family reunification. I authored legislation to reform the treatment of unaccompanied immigrant children who are in Federal immigration custody. The bill gives unaccompanied minors access to pro bono legal counsel and requires family reunification whenever possible.

We must recognize that the Asian Pacific Islander American community is diverse, not only in language, culture and foods, but in education and socio-economic levels as well. That is why it is so important to provide talented students who have clearly embraced the American dream the incentive to take the path toward being a responsible, contributing member in our civic society.

I have cosponsored the DREAM Act of 2009 to give undocumented high school students who wish to attend college or serve in the Armed Forces an opportunity to adjust to a lawful status and pursue these goals. If it becomes law, the DREAM Act would help Asian Pacific Islander Americans and others triumph over adversity.

As future generations of Asian Pacific Islander Americans continue to strive for excellence in our educational system, economy, and communities, I am pleased to honor and distinguish the many triumphs and accomplishments of the Asian Pacific Islander American community and their role in shaping our Nation's identity.

MAERSK ALABAMA HEROES

Ms. MIKULSKI. Mr. President, this month the Nation was gripped by the pirate attack on Maersk Alabama off the coast of Africa. Today, I rise to cheer Captain Richard Philips, for his bravery and valor, and the Navy SEALs, for securing the Captain's safe return.

We also need to honor the Merchant Marines who did not give up their ship. Though unarmed, using their wits, grit and training, they saved their ship—an American flag-ship—and the much-needed food aid they were carrying to the desperately poor of Africa.

The 20-man crew of the Maersk Alabama belonged to the American Merchant Marines. They were sailing a U.S.-flag vessel carrying 17,000 metric tons of cargo to Mombasa, Kenya.

I am so proud that many of them trained in Maryland at Calhoon MEBA Engineering School in St. Michael's or at the maritime training school in Piney Point. Here, they learned how to navigate at sea, operate and repair ships, and how to handle a pirate or terrorist attack. Here, they received the education to sail the sea with skill that allowed them to save their ship with courage.

Thirteen of the 20 crew members aboard the Maersk Alabama trained in Maryland; 4 at Calhoon MEBA Engineering School and 9 at the Paul Hall Center for Maritime Training and Education.

Richard Matthews of St. Michael's was an engineer aboard Maersk Alabama. He trained at Calhoon MEBA Engineering School, as did three others aboard the ship: Ken Quinn, the ship's second mate who called CNN from the ship; Michael Perry; and John Cronan.

John Cronan later told the ''Today'' show: ''We didn't have to retake the ship because we never surrendered it. We're American seamen. We're union members. We stuck together and did our jobs.''

Twelve crew members aboard the Maersk Alabama are members of the Seafarers International Union, SIU. Many of them trained at SIU's maritime school, the Paul Hall Center for Maritime Training and Education, in Piney Point, MD. It is the largest training facility for deep sea merchant seafarers. It teaches skills for sailors and seafarers, such as how to maintain a boat engine and how to secure a ship from pirates. I salute the SIU members aboard the Maersk Alabama for their patriotism and pluck and for their refusal to surrender their ship.

This incident reminds us of the importance of the Merchant Marines. Often unseen and unappreciated, they are vital to our economic security and our national security. They are our eyes and ears on the water. They are experts in marine safety, environmental protection and the new and latest technology. They keep our ports safe and our commerce flowing.

They are the Ready Reserve. They are there in war, transporting vital military aid and supplies to our troops. They are there in peace, supplying aid to those most in need—just as the Maersk Alabama was doing when the pirates attacked. They are prepared to risk their lives defending their flag.

Let's salute the Merchant Marine, not just for what they did aboard the Maersk Alabama, but for what they do, what they stand for, their proud tradition. The Merchant Marine tradition is one of saving America time and time again. They have been the Nation's fourth arm of defense since the American Revolution.

President Roosevelt called our Merchant Marines ''heroes in dungarees'' because during World War II these gallant men braved the waters of the North Atlantic and the dangers of the Murmansk run to keep our troops overseas fed and clothed. They have fought on the front lines of every war since then—from Korea, Vietnam and the Persian Gulf to the Iraq War. They were there on 9/11, ferrying thousands of people to safety in New York. They were there in the aftermath of Hurricanes Katrina and Rita. And they have been there providing food to starving children in Ethiopia, Somalia and dozens of other regions around the world.

The maritime community has been a major player in my personal and political history, from growing up in east Baltimore to my early days in Congress on the Merchant Marine and Fisheries Committee. I got my start in politics by representing blue collar workers in Baltimore, the shipyard workers and the dock workers.

I am relieved by the safe return of the Maersk Alabama's crew and captain and I am grateful for all of those involved in their safe rescue and return: the Navy and their elite Navy SEALs squad and President Obama and his administration for handling the hostage situation with great skill.

As we welcome them home, let us acknowledge not just their heroism off the horn of Africa, but the everyday heroics of our Merchant Marines; their skills and training, their patriotism and proud tradition, and the role they play every day, in every way, supporting our troops, guarding our ports, keeping our economy strong and safeguarding our interests overseas.

TRIBUTE TO JUDY COLLINS

Mr. LEAHY. Mr. President, Marcelle and I have been privileged to have known Judy Collins for years. We have heard her sing in New York, in Washington, DC, and in Vermont, and every time we have been thrilled. I have even been known to call her phone just to hear her sing on her answering machine.

The New York Times on April 23 of this year wrote a review of her current engagement at the Café Carlyle, and I talked with Judy about it. I know that she and Louis keep a very busy schedule, but I just wanted to congratulate her on another well deserved review.

I would ask unanimous consent to have the New York Times article printed in the RECORD.

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

[From the New York Times, Apr. 23, 2009]

FOLK GODDESS DESCENDS FROM HER LOFTY PEDESTAL

(By Stephen Holden)

It wasn't always so. But nowadays a Judy Collins concert is a seamless flow of music and storytelling. Alternating between the guitar and the piano, Ms. Collins offers a version of a personal musical history that is too complicated and rich to be covered in a single evening.

On Tuesday night at the Café Carlyle, where she began a six-week engagement, the emphasis was on her folk-music side, and for more than half the show she accompanied herself on acoustic guitar, with Russell Walden assisting on piano and backup vocals.

Her song ''Mountain Girl,'' performed early in the evening, set the tone. Ms. Collins grew up in Colorado, and her silvery vibrato-free voice might be described as an Alpine instrument. Especially when she sings a cappella, it has the ringing purity of a voice emanating from a lofty altitude and reverberating in an endless echo chamber of mountain passes. Ms. Collins, who will turn 70 on May 1, has miraculously retained her upper register. The higher she sings, most of the time with perfect intonation, the more she projects the ethereality of a flute played by the wind.

The influence that propelled her from a piano prodigy who played Mozart, she recalled, wasn't the sound of the Weavers or Woody Guthrie, but that of Jo Stafford on her 1950s folk albums. In particular it was Ms. Stafford's recording of ''Barbara Allen,'' first heard on the radio, that drew Ms. Collins away from classical piano. And as she sang this ballad of unrequited love, death and grief, her vocal similarities with Stafford, who died last year, were striking. Both singers expressed a demure self-containment in unadorned phrases that imbued their performances with faraway longing.

In recent years Ms. Collins has descended from the folk-goddess pedestal to emerge as a funny, self-effacing Irish-American storyteller, and the tension between her pristine singing voice and her salty reminiscences lends her shows a theatrical dimension. She reminisced at length about her first meeting with Leonard Cohen, who had no confidence in his talents until she recorded his song ''Suzanne.'' He returned the favor by persuading her to take up songwriting.

Her wildest tale described an adventure in Chicago on a winter night in which she caroused until 3 a.m. with two folk-singing colleagues, one of whom gave her a handgun for protection during the walk back to her hotel. Once safely in her room, she tried to remove the clip, and the gun went off.

Those were the wild old days to which Ms. Collins increasingly alludes in her shows. The more she talks about her itinerant life as a folk musician, the more you want to know. The high point of the show was her rendition of a recent Jimmy Webb song, ''Paul Gauguin in the South Seas.'' The song, which describes the painter's retreat from civilization in a search for paradise that eventually landed him in the Marquesas Islands, evokes the quest of any artist for sacred ground that has never been visited: an elusive place Ms. Collins conjures when her voice soars.

TRIBUTE TO BUDDY AND JULIE MILLER

Mr. LEAHY. Mr. President, Marcelle and I have gotten to know Buddy and Julie Miller over the years—especially with their friend of ours, Emmy Lou Harris. So many times when I have traveled I have listened to Buddy and Julie's music on my headphones and one of the great thrills I had was when they dedicated a song to Marcelle and me years ago at the Birchmere.

The Wall Street Journal this week wrote an excellent article about the ''first couple of Americana.'' I ask unanimous consent that it be printed in the RECORD.

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

[From the Wall Street Journal, Apr. 28, 2009]

BUDDY AND JULIE MILLER: FIRST COUPLE OF AMERICANA SINGS OF SETBACKS AND SORROWS

(By Barry Mazor)

NASHVILLE—By virtue of their broad musical accomplishments, Buddy and Julie Miller have essentially reigned since the mid-1990s as the unpretentious but royal couple of Americana music, that lovably motley modern-roots music genre derived from the American music traditions of country, folk, gospel, roots rock and more. Their CDs, whether recorded together or individually, have consistently garnered high praise for both the songs they write for them and for the often touching, sometimes feisty country-soul delivery. Their long-incubating new release, ''Written In Chalk'' (New West Records), is no different in that regard.

Songs of theirs have been recorded by everyone from country hit makers Lee Ann Womack, Patty Loveless, the Dixie Chicks and Dierks Bentley, to jazz great Jimmy Scott. Mr. Miller was seen bringing his always coveted, tasteful guitar work behind Alison Krauss and Robert Plant on this year's Grammy Awards show, as he did throughout their recent tour of major arenas. (Led Zeppelin veteran Mr. Plant performs a comic duet with Mr. Miller on the

new release.) And Mr. Miller has produced records for Solomon Burke, Jimmie Dale Gilmore and Allison Moorer.

Still, Mr. Miller, 56, and the more flamboyant Mrs. Miller, 52, are by temperament genuinely modest, and each, during separate recent interviews, remarked on being taken aback by the international outpouring of good wishes and concern that followed Mr. Miller's triple-bypass surgery. He'd felt a heart attack coming on after a Feb. 19 performance with Emmylou Harris, Patty Griffin and Shawn Colvin in Baltimore.

''The first month was rough; then it got better,'' Mr. Miller noted. ''I feel like I'd been beaten with baseball bats by a couple of the Sopranos, but I'm doing good. I've got a free pass to rest—no dates until June.

''You know, after the heart attack and surgery, a side effect was that all my senses were really heightened. For a week or so, I could smell somebody down the hall and my hearing was really heightened. And that kind of beautiful note that John Deaderick plays on keyboards on the record, the kind that really hurts you, would make me start weeping uncontrollably. It was kind of cool; I was hoping I could hold on to part of that—although it wouldn't be so good on stage!''

Nine of the dozen songs on ''Written In Chalk'' were written by Mrs. Miller, and—some comic change-ups and love songs with attitude aside—most of them concern loss or learning to be reconciled with personal setbacks, as titles such as ''Everytime We Say Goodbye'' and ''Hush, Sorrow'' suggest. As many fans of the Millers are generally aware, Mrs. Miller has not been seen on stage harmonizing with Mr. Miller or engaging in their George Burns-Gracie Allen style badinage for the past five years. She's been sidelined by the severely exhausting, painful condition fibromyalgia and by the sudden loss of her brother, killed when he was struck by lightning. Some of the new songs that seem most to reflect that experience in particular were, in truth, composed before the event.

''One of the things that sort of broke me,'' Mrs. Miller recalls, ''was that I went to Texas to be with my mother after my brother died, and when she asked about the record I'd been working on for half a year before that, I couldn't remember one single thing about it, not a note. When I came back to Nashville and found the notebook with those songs in it, they were all so strangely prophetic that it freaked me out.''

As a practical matter, Mr. Miller's packed schedule and Mrs. Miller's physical restrictions made it difficult to get this record made, delayed it, and inevitably affected the nature of their collaboration on it. There are, for instance, fewer outright duets on the record than on previous joint efforts.

''I worked on this so long, starting and stopping in between tours,'' Mr. Miller recalls, ''that it was hard to gain perspective on it. It started out as her record, but she couldn't finish it, and it went back and forth. It's difficult for Julie to start and stop; she kind of gives everything together, everything she's got. So she would just get started sometimes and I'd have to go back on the road, which was really, really difficult for her—and that went on for years.''

''It's funny,'' Mrs. Miller says. ''We live just a few blocks from Music Row, where people make appointments to meet and write songs for three hours. But I have to get totally lost in my soul and go oblivious to time and space and surroundings—and Buddy's the only person I can do that with. But he's been so busy and structured, and me so completely not. Unless I'm pressured, it's like I have my own radio station going that I can just tune into for songs; it's like whoever is doing the songwriting in me is playing, and three or four years old. Once you let them know they have to do it, they can't handle it.''

It's more than a little surprising, but Mrs. Miller has not actually heard the released ''Written In Chalk'' CD. ''Is that ridiculous?'' she asked. ''I never listen to anything I'm on after it's recorded, because I'm always tormented; I'll wish there was something I hadn't done.'' With the record overdue, Mr. Miller finished mixing the recordings in their state-of-the-art home-based studio, as he would most of the time—but to speed getting the job done at last, he did it with headphones on, so Mrs. Miller couldn't hear the sonic calls he was making, a source, they both admit, of some tension.

Mrs. Miller, however, characterizes her husband as ''one of the all-time great singers in the universe, with a unique sound—strong yet feeling very deeply, and emotionally vulnerable.'' And Mr. Miller says that the songs his wife writes ''are unique, not contrived; they come from such a pure place. She never writes anything that hasn't come from somebody's experience that's affected her. There's a place of innocence and depth at the same time that really gets me.''

Mr. Miller hopes, he says, that the many songs his wife has backed up and stored will still yield an outright Julie Miller album sometime soon, but that's far from a foregone conclusion. He, meanwhile, is already booked to finish producing a gospel CD for Patty Griffin, to return as musical director of the Fall Americana Music Awards, and then to get to work on a record project with the jazz- and country-influenced Bill Frisell and Marc Ribot.

Whatever (and whenever) the musical outcomes, the Millers can be sure that there's an audience waiting expectantly—with considerable love.

TRIBUTE TO MARILYN BERGMAN

Mr. LEAHY. Mr. President, I am happy to have this opportunity to honor the many accomplishments and contributions of my good friend, Marilyn Bergman. Marcelle and I have had the pleasure of knowing both Marilyn and her husband Alan for years. They are as accomplished songwriters as I have ever met. For the past 15 years, Marilyn has served as the distinguished president and chairman of the board of the American Society of Composers, Authors and Publishers, a position never before held by a woman.

Marilyn's list of achievements is vast and impressive. Her work as a champion of the arts has brought about many important changes. She was instrumental in developing ''A Bill of Rights for Songwriters and Composers''—an initiative designed to raise public awareness of the tremendous contribution and rights of those who make music. In addition, she has gone to great lengths to support and promote the work of female songwriters.

This month, Marilyn will step down from her position as chairman of the board of ASCAP and will move on to the next phase of her career. I know that she will bring the same commitment to excellence and vitality to all of her future endeavors and Marcelle and I wish her only the best.

I ask unanimous consent that the text of an April 8, 2009 ASCAP press release describing Marilyn's work be printed in the RECORD.

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

[From an American Society of Composers, Authors, and Publishers Press Release on Apr. 8, 2009]

MARILYN BERGMAN TO STEP DOWN AS PRESIDENT AND CHAIRMAN OF ASCAP AFTER 15 YEARS

LOS ANGELES/NEW YORK: April 8, 2009: Three-time Academy Award-winning songwriter Marilyn Bergman today announced her decision to step down as President and Chairman of the Board of ASCAP (the American Society of Composers, Authors and Publishers). Her successor will be elected by the ASCAP Board of Directors during their next meeting later this month.

Bergman was the first woman to be elected to the ASCAP Board of Directors and was named President and Chairman of the Board in 1994. She will continue to serve as an active Board Member.

Commenting on her decision, Bergman said: ''I am grateful to have had the honor of serving as the President and Chairman of ASCAP for 15 years, and am exceedingly proud of all that was accomplished during my tenure. I will continue to be a passionate advocate for all music creators through my work on the ASCAP Board of Directors. But in terms of the Presidency itself, I see that now is the right time to step down.''

Bergman noted that she and her writing partner and husband, Academy Award-winning songwriter Alan Bergman, have a number of new projects in the works which require her focus. ''Alan has always been supportive of the time that my ASCAP Presidency required. But with so much exciting work before us, I feel it's time that I fully devote myself to my first calling: writing. So I look forward to shifting my energy back to our work, while having the privilege to continue to serve ASCAP and my fellow music creators.''

The Bergmans have just completed work on Steven Soderbergh's film, The Informant, with composer Marvin Hamlisch, and are currently working on two musical theatre projects, one with Marvin and one with Michel Legrand. They are also at work on Visions of America: A Photo Symphony Celebrating the Sites and Songs of Democracy with renowned photographer Joseph Sohm and composer Roger Kellaway. This was premiered at the Kimmel Center-Verizon Hall on January 25, 2009 in Philadelphia with Peter Nero and the Philly Pops.

A Strong Legacy of Advocacy, Education and Growth

Bergman's 15-year tenure as President and Chairman of the Board of ASCAP was marked by a series of noteworthy achievements, all of which have had a positive and lasting impact on music creators.

As a passionate voice for the rights of music creators, Bergman has a strong presence on Capitol Hill. She helped lead ASCAP to several major legislative victories, including most notably the Supreme Court's decision in 2003 to uphold the Sonny Bono Copyright Term Extension Act of 1998, which extended copyright protection an extra 20 years—to the life of the author plus 70 years. Other legislative highlights include:

Helming ASCAP through the modernization of the Federal consent decree that governs ASCAP's operations.

Leading ASCAP's lobbying effort that helped secure the passage and signing of the Digital Millennium Copyright Act in 1998—bringing the U.S. into line with World Intellectual Property Organization treaties and strengthening music copyrights on the Internet.

Serving on the National Information Infrastructure Advisory Council (NIIAC) from 1994

to 1995, at the request of Vice President Al Gore. Serving two terms (from 1994 to 1998) as President of CISAC, the International Confederation of Performing Right Societies.

Most recently, Bergman played a key role in the launch of A Bill of Rights for Songwriters and Composers, an ASCAP advocacy and awareness-building initiative designed to remind the public, the music industry and Members of Congress of the central role and rights of those who create music.

Bergman was also instrumental in the launch of the ASCAP I Create Music EXPO, the premier conference for songwriters, composers and producers. The 4th annual EXPO is set to take place at the Renaissance Hollywood Hotel in Los Angeles, April 23–25, 2009.

She has also been a strong supporter of educating young people about the creative process and the rights inherent in the creation of music. Programs established under her leadership include:

The ASCAP Foundation Children Will Listen Program—created in honor of ASCAP member and musical theatre great Stephen Sondheim (West Side Story, Gypsy!, Pacific Overtures, A Little Night Music) to provide the musical theatre experience to a generation of students who might not otherwise have this opportunity.

The ASCAP Foundation Creativity in the Classroom Program—designed to help students recognize their own creative work, to understand their rights as owners of intellectual property and to respect the ethics of protecting the creative property of others.

The Donny the Downloader Experience in partnership with i-SAFE Inc., the worldwide leader in Internet safety education—an interactive school assembly program aimed at educating middle school students on what it means to be a music creator and the real cost of music piracy.

The Junior ASCAP Members (J.A.M.) Program in partnership with MENC: The National Association for Music Education—created to support and nurture music students, and to educate them on the value of music and the importance of intellectual property rights.

She also supported the development of The ASCAP Foundation/Lilith Fair Songwriting Contest—a national competition designed to encourage unsigned women songwriters, cosponsored by The ASCAP Foundation and Lilith Fair.

''From the moment she assumed the role of President and Chairman of the Board, Marilyn worked tirelessly on behalf of our membership to the benefit of all music creators,'' said John LoFrumento, CEO of ASCAP. ''She has been tremendously effective in helping ASCAP anticipate the changing needs of our members—particularly given the immense shifts that have occurred in music, technology and society as a whole over the past decade. I will greatly miss the insights and collaborative spirit that she brought to our working relationship. But I am comforted to know that Marilyn will remain a strong and active presence on our Board of Directors.''

Bergman presided over the largest expansion of ASCAP membership in the history of the organization—growing from 55,000 when she assumed the Presidency in 1994 to a current membership of more than 350,000 music creators.

100 YEAR BIRTHDAY OF GLENROCK, WYOMING

Mr. BARRASSO. Mr. President, 100 years ago today, folks living in Glenrock, WY, voted to incorporate their town. While April 30, 1909, was Glenrock's official birthday, the town had been a vibrant and active place for decades prior.

Pioneers traveling through the Wyoming territory in the late 1800s chose to stay in the sheltered area where Deer Creek met the Platte River. Deer Creek Station became a popular rendezvous for the wagon trains and settlers traveling westward on their way to a new life.

Eventually, a community was formed. The settlers chose to call their town Glenrock, after a rock that was used by the pioneers as a landmark.

Over the years, energy has been the backbone of Glenrock's economy. First coal, then oil, and now wind, providing energy to Wyoming and America is a history the people of Glenrock embrace.

Today, the citizens of Glenrock kick off a year-long celebration of their community. I join them in honoring the brave pioneers who preceded them, and send best wishes as the town of Glenrock looks toward the next 100 years.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

I appreciate a lot of what you stand for and accomplish in DC. I am a high school teacher in Idaho and have chosen to take a $10,000 cut in pay to have the opportunity of teaching privately instead of remaining in the public system. So, in addition to all the common woes of teachers, I have no benefits and a smaller paycheck.

I ask not for more pay; I only work 180 days a year, for crying out loud. But I hold to that centuries-old conviction—that the free American can provide for himself, his community, his beloved nation, and for the world around him when he so chooses. But the regulated, restrained, and restricted American will find himself captive and controlled as he watches the oppression, long familiar to the history of mankind, push individual freedoms aside in favor of the omniscience of a well-meaning government.

I, with my wife and six children, used to travel every summer to Mexico and the Western states. We no longer do so, but we need no assistance from the Senate. We used to visit Yellowstone and Craters of the Moon every spring and fall. We no longer do so, but we need no assistance from the Senate. We used to drive to visit grandparents in California every Christmas. We no longer do so, but we need no assistance from the Senate. Please, as you fought against climate change legislation, fight also against any financial assistance that would result in using tax monies.

Our country flourishes best when its people are trusted to be wise beyond mere elections. Too many politicos clamor for wisdom of the people in elections, but then refuse to admit that popular wisdom remains to allow for proper local self governance.

Help remove the restrictions that so cruelly keep us dependent on others' petroleum sources. Help remove the regulations that falsely inflate corn prices. Help remove the restraints that continue to dim the American spirit of ingenuity, entrepreneurship, and liberty.

Perhaps, if Congress relinquishes their tightening grip on the energy sector, I can return to the South rim of the Grand Canyon with my wife and children to once again marvel at glory that God has repeatedly demonstrated in my country.

JASON, *Rigby*.

I live in the wonderful town of Hagerman. I met you personally one fall evening after you and other friends had spent the day duck hunting and were in a very close game of shuffle board. The town of Hagerman enjoys our fame for the duck hunting and the people it brings to our town. The sport of hunting is not cheap, and now with the gas prices??

I work for Con Paulos Chevrolet in Jerome. It is 33-mile trip one way. It used to cost $30.00 to $40.00 a week to get to my job. Now it is $60.00 plus. Same car, a minivan, 2005. How do our farmers and ranchers survive with their pick up 44 and the farm produce trucks? So gas is up, food is up and Idaho Power needs a rate hike again. Our salaries in southern Idaho are not up. Companies cannot afford any raises due to all the ups. The oil companies report massive earnings, yet we are paying and paying and paying. Why cannot someone put a cap on the gas? Stop it dead; just say no. The gas speculators would have to deal with that, the oil companies should be sued by the people they are gouging and get busy building refineries and spend some of that money we are paying them for better fuels or give it back.

Does it seem to you that the Middle East has been planning our demise for some time now? It is working. The panic is just around the corner; why cannot we see it coming?

DEANA, *Hagerman*.

P.S. I was impressed with one thing about you the evening we met. You drank water!

I am a recent graduate of BYU-Idaho, and I still live in Rexburg. I have a job working for an engineering firm in Idaho Falls. Each day I commute the 30 miles to work. This commute is becoming increasingly expensive, and I am considering alternatives on how to get to work and back. Public transportation is limited to Idaho Falls, and I am the only one from work who comes from Rexburg making it difficult to carpool. One thing I have done is bought a Honda Accord. It gets good gas mileage and reliability to save on the travel costs. I would like to buy American-made cars if they could match the reliability and economy of some of the foreign cars. With the high-cost of gasoline driving my focus though, I am forced to spend our American dollars on foreign cars.

I know the automakers are rapidly trying to change, but in the meantime, they are losing money, making it more difficult.

I also know firsthand that research currently being done at the INL on syngas production from nuclear power plants coupled with hydrogen production plants could completely revolutionize the gasoline market. It would allow us to still use gasoline, and so not have to change our infrastructure, but we would never have to dig any more fossil fuels. We could make our own hydrocarbons chemically. If done the right way, this process would also be an almost zero pollution process. The carbon would come from garbage, sewage, and mulch already being collected at local dumps and waste treatment facilities. Rather than rot and naturally send methane and carbon dioxide into the atmosphere (that so many people seem to be worried about these days), it would be used in the production of hydrocarbons. The carbon that would already be entering the atmosphere through the decomposition process would just be intercepted and used it in our fuel. A patent has already been filed on this technology. I feel like one way to help in lowering energy costs is to give groups like this one in Idaho ample funding to develop these technologies. The budget on that program is entirely too small.

If you are looking for areas to get funding from, I would suggest rerouting some of the money being sent to help out ''honest'' consumers who did not realize they were getting into a debt-trap by overspending, overborrowing, and over-mortgaging their lives. It is a sad situation, but fiscal responsibility will never be instilled in our minds if the government is always standing by with a handout. In the long run, a future catastrophe could be avoided if we ride this crisis out and educate our consumers but do not give a handout. People are still responsible for their actions, even if millions are guilty of them. A $300 billion handout does not seem like it teaches us as consumers anything.

Thank you for considering my comments; I hope they are helpful. If you have any further questions or comments, I would love to talk.

BRYANT, *Rexburg*.

Thank you for the opportunity to vent on energy. I believe we should look past the current prices and look to be energy independent ASAP. There is so much technology available in almost all areas of energy. Renewable sources such as solar wind and hydro should be promoted along with bios out of byproducts and waste. Fuel from our food bad idea. Assistance for private enterprise to facilitate the distribution of hydrogen gas since the current energy providers do not want to make the investment because it will cost them. Let them know it will really cost them if they do not move in that direction the tech for hydrogen is amazing and profitable at $4 as I understand it, production cost on large scale would be under $3 per gallon and is our best long term source. Combine that with solar as the tech becomes available our cars and homes and roads etc. will be painted with solar collectors. Right now! It should be required to have a posting of where fuel comes from (nation of origin) like seafood so we can choose not to support our enemies even if it costs us more. States should make the decisions on mining exploration and development of resources. Help the innovations get power to the people. This should be what saves freedom and liberty. Get the government out of the way and let free I mean really free enterprise be allowed to work remove the restrictions on new refineries and development of hydrogen gas take all the red tape out of the way and let us get with it and nuclear power as well. Let us do it and do it now.

HAROLD.

I am a wife and mother of two children with another on his way (July 21st C-section is planned). We are a family who strongly believes in the importance of the mother staying at home in a child's early years to ensure confidence, morals, and stability is taught before each child starts school. Due to these strong beliefs, we are a one-income family living off $39,500 per year before taxes and church tithing. Living on such a strict budget to ensure that I can stay home with my young children has not been easy over the last few years. We do not enjoy conveniences most Americans take for granted so we do not have to put our children in someone else's care. For example, we do not subscribe to the newspaper, cable or satellite television, any magazines, and until having the need for my husband and I to finish our degrees in an internet-based university, we did not have home internet access for six years.

Financially, we have been struggling for years; however, now gas, energy, food, health care, and utility prices have consistently risen at such enormous rates, I am facing having to leave my young children and new baby in daycare and go back to work. Even so, when I was working before and my children were just babies, my paycheck went straight to daycare and I was lucky to break even financially. Obviously, I quit to tend to my own children to ensure they were getting the nurturing they needed and due to the fact that my family financial contribution was canceled out by daycare costs. Even though I have a degree now, I will have three children as well, and I cannot imagine I will be able to find a high enough paying job to break even anywhere in the Boise area. With the economy and housing instabilities, the last thing our family wants to risk is moving to another area for an insecure job and not being able to get back into a house, which is the only secure item in our lives right now. So, we are stuck . . . not to mention I have such incredibly low confidence, (after just graduating at the end of May), that my husband and I could support a larger family; thus, I am having my tubes tied. These economic stresses are taking control of our way of life, family, future goals, and now even the size of our family (and therefore future generations of our family).

How do we battle the high rise in gasoline and energy costs (and everything being affected by these prices) when employee income levels have been stagnant or only rising 2–3% for years? Expenses have risen from 10% to 200% on varying services and products. The economy has spun out of control and, for Idahoan families like ours, we feel completely helpless and in dire straits for the future. Just making ends meet from paycheck to paycheck and trying our best to stay out of credit card debt has been tough enough, but now with two sets of student loans going into repayment with no hope of an income increase and yet substantial increases in necessity items, what hope do we have of ever saving a dime for retirement or kids' college expenses? The future is looking extremely dim, and we feel trapped. I guess my husband and me, both college-educated and wanting to obtain MBAs, may have to give up on our dreams and get two jobs a piece and put our children in full-time day and night child care to make ends meet. The sad thing is I do not feel any confidence this will be a short-term sacrifice but the way of life for the future. I only see things getting worse. I have lost confidence our country will ever get to a better place economically. America may have to change the border patrol to the Mexican side as Americans may start jumping the border soon to a better life down in Mexico!!

Thank you for your time and what you are doing to try to get us out of this mess.

JANIEL, *Boise*.

I read your e-mail regarding your request as to how high energy prices have been affecting me and my family, and may I say the effect has been positive. Now that gasoline prices more accurately reflect what actually is happening in the global market, I have been taking steps to reduce my gasoline consumption.

Primarily, my family and I are no longer taking unnecessary trips, but are trying to consolidate trips to the store or other venues so as to maximize the efficiency of our trips, rather than taking repeat trips to the same or nearby locations. We are attempting to carpool as much as possible, and have been utilizing alternative forms of transportation such as bicycling. Also, I have been altering my driving techniques in order to be more fuel efficient, for example, driving slower, and slowing and accelerating more gradually.

All these techniques are simple and painless, as well as being beneficial both economically and environmentally. It is unfortunate that those of you who have the power to act to change how we as a nation utilize our energy lacked the perspicacity to make changes in our energy policy which would likely have prevented, or at least softened the impact from these market changes.

However, now that the market has taken over, I believe it would be disingenuous of you to attempt ''reform'' that would ultimately lead to more of the same. Please allow the market to drive oil prices upward. This will result in ordinary citizens such as me conserving fuel, which will lead to diminished greenhouse gases and less global warming. It will also allow alternative forms of clean and renewable energy to be more competitive in the global market, encouraging entrepreneurship which will stimulate our lagging economy, create new jobs, and will be a market driven path to decreased greenhouse gas emissions and reduction in global warming.

I hope you have the courage and the integrity to evaluate what is currently occurring in the energy market rationally. Please do not interfere with the counterproductive and likely ineffectual means you are proposing.

FRANK.

I would like to tell you about how the high energy prices are affecting me personally, as well as my family. I am an outside salesperson with my company, and as such, I must travel around to see different clients as well as potential clients. Even though I do not necessarily travel great distances as in metropolitan areas, the distances between towns here in the Magic Valley are substantial. So, in order to service my clients and get new business, I have gone from spending approximately $150 per month in fuel to almost $300 per month, and that with cutting back on who I see. My salary is based on sales, so the more I see and sell, the more I make. With cutting back on where I go and who I see, my potential for better earnings, for my family, is greatly inhibited; and with the increase in fuel, I have actually taken a decrease in pay!

Then there is the issue of my parents who are on a fixed income, with the increase in their fuel costs and the costs at the grocery store, results from the increase in fuel. They have no choices!

I believe that we need more domestic oil production, from drilling where there is plenty of supply, to more refineries, to whatever it takes! We here in rural Idaho do not

have mass transit, or any other alternative. I believe it is high time that Congress stop catering to Big Oil and conservationists who do not have a clue. Please help your constituents!

VERN, *Twin Falls.*

Thank you for soliciting and receiving emails about the high energy prices. As is so often heard these days, ''something has to be done''. We are a middle class, working family with two adult children (one in the Coast Guard, one soon to leave for college) and one teen driver (yikes!) still at home. I could elaborate on and on about how gas prices are affecting all of us but will try to keep it concise. We had been planning a congratulatory vacation to Hawaii for our family for quite some time—to congratulate one son for graduation from high school and to honor our son in the Coast Guard for his promotion. Due to gas prices, we have had to scale down our trip and will now be camping on the beach in Oregon. Our youngest is working full time, so we have given him the use of our fuel-efficient car to get to and from work. He is unable to ride a bike due to traffic and for his safety. Therefore we are using a vehicle (not by choice) that is not fuel-efficient to commute to work. In an effort to keep it affordable, we are carpooling and will soon be taking the motorcycle safety course in hopes to utilize a motorcycle. Using a motorcycle is only a band aid as it will not help in the winter. We have been looking for a used fuel-efficient vehicle, but the prices have climbed dramatically and they are very hard to find. I am so disappointed in the gas mileage for all cars on the market. I know that our country can improve this. Hondas and Toyotas for example have gotten over 30 mpg for many years. Why cannot we raise the bar and demand at least 35 mpg?

My husband and I have discussed the huge ''trickle-down'' that the gas prices will have on the economy. Because of the high gas prices, we have chosen to cut out other services. We are no longer subscribing to the Idaho Statesman (which we have always taken), we will be discontinuing our home phone service and are cutting back any way we can. I know of other people such as us who are doing the same. The impact of these cutbacks is just beginning to be seen, such as with Starbucks, Round Table and other businesses closing. We understand that we will be contributing to this downturn by cutting back on services but it is necessary.

Again, thank you in advance for your help with this matter.

GAIL and DENNIS.

Here is an addition to the testimonials you asked for recently concerning the effects on the high price of fuel. Not only am I going broke due to high gas prices, food costs, etc., but also this is the first year we have had to scratch items off the grocery shopping list. This is literally taking food of the table and taking food away from my family.

DEWEY, *Idaho Falls.*

ADDITIONAL STATEMENTS

GEORGE J. MITCHELL SCHOLARSHIP PROGRAM

• Mr. CASEY. Mr. President, as our world continues to face unprecedented challenges, now more than ever, we must work with our allies and friends. I support the work of the George J. Mitchell Scholarship Program which seeks to strengthen relations between the United States and Ireland. Like the great man it is named after, the George J. Mitchell Scholarship Program fosters connections between future generations of American leaders and their Irish counterparts, regardless of ancestry. It seeks to further the education of American students through post graduate studies while building bonds between the Mitchell Scholars and the Irish and the Northern Ireland communities in which they live and study.

Like many Pennsylvanians, my family can trace its ancestry to Ireland. Through the generations, our connection with and affinity for the Emerald Isle has deepened. However, with fewer and fewer Irish moving to America, it is critical that we encourage all Americans, not just those with Irish ancestry, to forge connections with the Irish people. While Irish Americans have become Mitchell Scholars, so too have young Americans from different backgrounds.

The Commonwealth of Pennsylvania will soon be welcoming Alexandra Chirinos, who will work as a judicial law clerk for the Honorable Legrome Davis in the Federal Eastern District of Pennsylvania. Alexandra was born in Mexico and graduated from the University of Texas, Austin. Her college thesis explored the factors that cause migrant women to endure domestic abuse and examined the reasons why existing abuse prevention programs were ineffective in migrant communities. She founded the UT Bilingual Mentoring Program as well as the Hispanic Scholarship Fund Scholar Chapter dedicated to providing academic and service opportunities for students of all backgrounds. As a Mitchell Scholar, she obtained her MA in human rights law from the National University of Ireland Galway and Queen's University, Belfast. She then graduated from Harvard Law School, where she was the executive editor of the Latino Law Review, the copresident of the Latin American Law Society and one of the founding members of the Harvard Immigration Project.

Alexandra's journey and commitment to intellectual achievement, leadership, and public service is just one example of the many young Americans participating in and being inspired through the George J. Mitchell Scholarship program. The bond between Pennsylvania and Ireland will only deepen as Dan Rooney of Pittsburgh, PA, is the President's nominee to become the next U.S. Ambassador to Ireland. In that capacity, I fully expect Dan to advance the cause of peace among the Irish people and to continue developing relationships between the United States and Ireland like those created through the George Mitchell Scholarship Program.•

REMEMBERING MILFORD JUNE ''DOLLY'' COOPER

• Mr. GRAHAM. Mr. President, I ask my fellow colleagues to join me in honoring the memory of a dedicated servant and leader, Milford June ''Dolly'' Cooper. After a lifetime of unprecedented service to his State and Nation as a World War II veteran and a member of the South Carolina House of Representatives, Mr. Cooper passed away in Greenville, SC, on April 26, 2009, at the age of 88.

While he will be remembered by most as a man who loved to help people and demonstrated an unwavering dedication to the community, I will remember him as a spirited, commanding, honest giant of a man. Affectionately referred to as ''Dolly'' by all who knew him, he was a World War II veteran who prepared to make the ultimate sacrifice on behalf of our freedom. He served in the 30th Infantry Division and saw 11 months of combat in Europe, at Normandy, at the Battle of the Bulge, and at the Rhine River. He was also involved with the capture of the last large German city, Madgeburg, which was 45 miles from Berlin. For his service he was awarded the Purple Heart, Bronze Star, American Defense Silver Medal, the Combat Infantry Badge, and the Belgian Forragere Award.

Perhaps one of my greatest honors was to see that Mr. Cooper was in person at the dedication of the National D-day Memorial on June 6, 2001. This memorial is a tribute to Mr. Cooper's valor, fidelity, and sacrifice, and those who served along side him during the allied invasion of Western Europe.

Born and raised in upstate South Carolina, Mr. Cooper attended Piedmont High School in 1937 and joined the South Carolina National Guard in Easley. After his service in the military, Mr. Cooper opened the Piedmont Economy Store, which he solely owned and operated from 1955 to 1999.

In 1974 he was elected to the South Carolina House of Representatives on a platform of bringing health care services to rural South Carolina. Mr. Cooper served House District 10 for 16 years.

In addition to his time in politics, Mr. Cooper was active in the Pelzer Lions Club for 55 years. He was member of the Medical University of South Carolina Board of Trustees from 1989 to 1996. Mr. Cooper also served as a board member for the Pelzer Rescue Squad, the Appalachian Health Council, and the Baptist Hospital Boards for Easley and Columbia. After decades of serving South Carolina, Mr. Cooper was awarded the Order of the Palmetto from Governor Carroll Campbell in 1989.

Mr. Cooper is survived by his wife of 61 years, Melba Blackmon Cooper, by his four children, six grandchildren, and three great-grandchildren.

I ask that the U.S. Senate join me in commemorating Mr. Cooper's lifelong dedication to service to our country and to the State of South Carolina.•

25TH ANNIVERSARY OF THE HALEKULANI HOTEL

• Mr. INOUYE. Mr. President, the Halekulani is, without question, one of

the signature hotels of Hawaii. It is synonymous of the interweaving of luxury hospitality and Hawaii's unique history and local culture. Its roots trace back some 200 years when Princess Likelike and ancient Hawaiian fishermen named its Waikiki beachfront location Halekulani, or the ''house befitting heaven.''

This year, the Halekulani is celebrating the 25th anniversary of its reopening in 1984, following a grand property-wide renovation by its current owners, Mitsui Fudosan, USA, Inc., a branch of one of Japan's leading companies.

This new chapter for the Halekulani builds on its fabled history, and strengthens and expands its international reputation for excellence and community involvement. The Halekulani is more than a unique visitor experience with open courtyards, lush gardens, ocean breezes, and a spa that offers the healing touch of Polynesian traditions; it is also an enthusiastic promoter of Hawaii's history and the arts, sponsoring the Honolulu Symphony's ''Halekulani Masterworks'' and offering guests special access to Hawaii's leading museums and historic buildings.

In 1907, the original Halekulani opened as a residential hotel owned by Robert Lewers that was called the Hau Tree with a beachfront home and five bungalows. Ten years later, Juliet and Clifford Kimball bought the hotel, renamed it the Halekulani, and began catering to well-do-to travelers. In 1962, the Norton Clap family of Seattle bought the hotel, and sold it 39 years later to Mitsui Fudosan, USA.

While each owner of the Halekulani sought to enhance the hotel's distinctiveness in different ways, all four shared a common goal: a commitment to excellence that remains unwavering.

I congratulate the Halekulani as it celebrates the 25th anniversary of its reopening, and as it looks forward to a bright future. I am certain its owners will continue their best efforts to maintain the Halekulani as a landmark hotel, a leader in the international travel and visitor industry, and an icon of Hawaii.●

TRIBUTE TO LIEUTENANT COLONEL MARGARET JOHNSON

● Mr. ISAKSON. Mr. President, today I honor in the RECORD of the Senate LTC Margaret A. Johnson of the Georgia Army National Guard on the occasion of her retirement after 22 years of service.

Lieutenant Colonel Johnson, who is from Macon, GA, graduated from Wesleyan College in 1969 with a bachelor's degree in English, and in 1976 received a master's degree in English from the University of South Florida. In 1980 she graduated from Mercer University's Walter F. George School of Law with a juris doctor degree. Lieutenant Colonel Johnson took her impressive resume to the Georgia National Guard and was commissioned as first lieutenant into the Judge Advocate General Corps.

During her 22 years of service, Lieutenant Colonel Johnson was given many challenging assignments throughout the United States, and rose to the challenge on each and every occasion. When her country asked her to serve in support of Operation Enduring Freedom, she answered the call and has spent the last 2 years on active duty. Lieutenant Colonel Johnson culminated her career as the deputy staff judge advocate for the Office for the Administrative Review of the Detention of Enemy Combatants, Arlington, VA, where she rose to the challenge once again and performed her job duties excellently. She provided much-needed leadership for a legal department that had to quickly respond to ever changing standards established by Congress and the Federal courts.

In testament to her service, Lieutenant Colonel Johnson was awarded the National Defense Service Medal, the Army Reserve Components Achievement Medal, the Armed Forces Reserve Medal, the Global War on Terrorism Medal and the Georgia Meritorious Service Medal. I honor LTC Margaret A. Johnson on the occasion of her retirement, and I extend to her my sincere gratitude for her dedication to the defense of our nation. I know that Lieutenant Colonel Johnson's children, Mary Catherine Johnson and Margaret Amy Allen, are so proud of their mother for her long and distinguished career, and I would also like to express my gratitude to them as well.●

50TH ANNIVERSARY OF THE ASTRONAUTICS CORPORATION OF AMERICA

● Mr. KOHL. Mr. President, today I acknowledge the outstanding achievements of the Astronautics Corporation of America which will be celebrating its 50th anniversary in Milwaukee on May 31, 2009. I want to share a bit of background with my colleagues about the Astronautics Corporation and recognize their vital contribution to Milwaukee and the Nation.

The Astronautics Corporation of America was established in 1959 when Nate Zelazo and a small team of experienced engineers started their own company devoted to advanced technology in the aerospace field. Since then, the company has become a trailblazer in developing and manufacturing military and commercial electronics. Their products are used throughout the world in a wide range of sea, ground, and aerospace applications. Today, more than 100,000 aircraft use Astronautics flight instruments, displays, computers, and components. The company keeps jobs in Wisconsin while building technology systems that keep our service men and women safe.

It is with great pride that I wish the Astronautics Corporation of America congratulations on their 50th anniversary and continued success as innovators.●

TRIBUTE TO THE LYME-OLD LYME FIRST ROBOTICS TEAM

● Mr. LIEBERMAN. Mr. President, I wish today to honor the ''Techno Ticks,'' the FIRST Robotics team from Lyme-Old Lyme High School in Old Lyme, CT, which won the Chairman's Award at the 2009 International FIRST Robotics Championship. The Chairman's Award is the most prestigious honor given out at the FIRST competition, which this year included 348 teams from most states in the United States as well as Brazil, Israel, Canada, and Mexico. It is awarded to the team that best represents a model for other teams to emulate, and which embodies the goals and purposes of FIRST.

FIRST—For Inspiration and Recognition of Science and Technology—was established in 1989 to inspire young people's interest and participation in science and technology through a variety of mentor-based programs that help young people develop skills in science, technology, and engineering. Every year, the FIRST Robotics Competition challenges teams of high school students to design and build robots from a kit of hundreds of parts. The teams then control their robots in a game against other teams. The goal of this program is not just to teach students about robotics, but help them to develop general problem solving abilities as well as self-confidence, communication skills, and leadership.

Before participating in the International Competition, the Techno Ticks won the Chairman's Award at the Connecticut FIRST Robotics Competition for the 7th year in a row—a record amongst the more than 1700 FIRST teams now in operation worldwide. This remarkable record of success is a testament to the hard work and dedication of head coach William Derry and all the students and faculty who have been a part of the Techno Ticks over the last 11 years. The team has also benefitted from the efforts of many volunteers and supporters, including mentors from local businesses that generously share there time and expertise with the team.

At a time when our Nation's ability to sustain a growing economy and create good jobs at home increasingly depends upon our achievements in science and technology, the FIRST competition has helped to instill in many young people a thirst for discovery that leads so many to pursue a career in the physical sciences. It is hardly surprising that so many former Techno Ticks have gone on to study engineering. Two years ago, I was fortunate enough to attend the Connecticut regional competition in Hartford, and I couldn't help but be amazed by the creativity and dedication the Ticks and all the other teams put into building their robots.

I offer my congratulations to Coach Derry and the Lyme-Old Lyme Techno Ticks for winning the Chairman's Award at the 2009 International FIRST Robotics Championship and commend

all the faculty members, volunteers, mentors, and supporters who were instrumental in their victory.●

41ST BRIGADE DEPLOYMENT

● Mr. WYDEN. Mr. President, today I wish to show my appreciation for the dedication and commitment of the Oregon National Guard. They are the best that Oregon has to offer. The best our Nation has to offer. I am honored, this weekend, to personally see off the largest Oregon guard deployment since World War II.

Right now, 2,700 citizen soldiers from across my State are gearing up for a 10-month deployment to Iraq, and I am positive that their actions will bring honor to the United States and to the great State of Oregon.

Despite progress, Iraq remains a dangerous place. But our National Guard soldiers are well-trained, well-led and well-equipped. I know they will do their best to complete their missions and return to their families. I also know that our Nation has done its best to give them the tools they need to do so safely and expediently.

I have been fortunate enough to meet with many of Oregon's citizen soldiers more than once—first in the dust and heat of southern Idaho last summer then in their armories in the days leading up to training at Camp Roberts. I made a promise to see them off when they are deployed and I intend to be there to welcome all of them home after their courageous service is complete.

These are uncertain times—not only in the United States but around the world. It is a world that is once again turning its eyes toward America for leadership and inspiration. Now, more than ever, it is time for America to be strong for those in need.

The Oregon National Guard is the face of that strength. Our men and women in uniform are this country's greatest representatives to the world. While being strong, we must also demonstrate our values through compassion, justice, and integrity.

I realize these soldiers have a difficult road ahead, which will involve both professional and personal struggles. Whether this is their first deployment or their fourth, their dedication and commitment will be tested on a daily basis—but, courage and determination are their hallmarks.

Members of the Oregon National Guard are exactly the kind of soldiers that our Founding Fathers believed could best defend this Nation—volunteer citizen soldiers with roots in the community and a patriotic spirit.

I salute Oregon's great band of citizen soldiers. May God bless them and see each and every one of them home safe.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Armed Services.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:23 a.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 586. An act to direct the Librarian of Congress and the Secretary of the Smithsonian Institution to carry out a joint project at the Library of Congress and the National Museum of African American History and Culture to collect video and audio recordings or personal histories and testimonials of individuals who participated in the Civil Rights movement, and for other purposes.

H.R. 1626. An act to make technical amendments to laws containing time periods affecting judicial proceedings.

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

At 12:33 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 735. An act to ensure States receive adoption incentive payments for fiscal year 2008 in accordance with the Fostering Connections to Success and Increasing Adoptions Act of 2008.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 46. An act to provide for payment of an administrative fee to public housing agencies to cover the costs of administering family self-sufficiency programs in connection with the housing choice voucher program of the Department of Housing and Urban Development.

H.R. 1913. An act to provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes, and for other purposes.

The message further announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 45. A joint resolution increasing the statutory limit on the public debt.

The message also announced that pursuant to 22 U.S.C. 6913, and the order of the House of January 6, 2009, the Speaker appoints the following Members of the House of Representatives to the Congressional-Executive Commission on the People's Republic of China: Mr. LEVIN of Michigan, Co-Chairman; Ms. KAPTUR of Ohio; Mr. HONDA of California; Mr. WALZ of Minnesota; Mr. WU of Oregon; Mr. SMITH of New Jersey; Mr. MANZULLO of Illinois; Mr. ROYCE of California; and Mr. PITTS of Pennsylvania.

The message further announced that pursuant to 44 U.S.C. 2702, and the order of the House of January 6, 2009, the Speaker re-appoints the following member on the part of the House of Representatives to the Advisory Committee on the Records of Congress: Mr. Joseph Cooper of Baltimore, Maryland.

The message also announced that pursuant to 44 U.S.C. 2702, the Republican Leader reappoints the following member on the part of the House of Representatives to the Advisory Committee on the Records of Congress: Mr. Jeffrey W. Thomas of Ohio.

The message further announced that pursuant to section 333(a)(2) of the Consolidated Natural Resources Act of 2008 (Public Law 110–229), the Republican Leader appoints the following member on the part of the House of Representatives to the Commission to Study the Potential Creation of a National Museum of the American Latino: Mr. Danny Vargas of Herndon, Virginia, as a voting member.

Furthermore: Dr. Aida Levitan of Key Biscayne, Florida, and Mrs. Rosa J. Correa of Bridgeport, Connecticut, were previously appointed and shall remain voting members.

At 5:36 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H. R. 627. An act to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

The message also announced that pursuant to section 333(a)(2) of the Consolidated Natural Resources Act of 2008 (Public Law 110–229), the Republican Leader appoints the following member on the part of the House of Representatives to the Commission to Study the Potential Creation of a National Museum of the American Latino: Mr Nelson Albareda of Miami, Florida.

Furthermore: Dr. Aida Levitan of Key Biscayne, Florida, Mrs. Rosa J. Correa of Bridgeport, Connecticut, and Mr. Danny Vargas of Herndon, Virginia, were previously appointed and shall remain voting members.

MEASURES REFERRED

The following bills and joint resolution were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 46. An act to provide for payment of an administrative fee to public housing agencies to cover the costs of administering family self-sufficiency programs in connection with the housing choice voucher program of the Department of Housing and

Urban Development; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 1913. An act to provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes, and for other purposes; to the Committee on the Judiciary.

H.J. Res. 45. Joint resolution increasing the statutory limit on the public debt; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 627. An act to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1484. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Additions and Revisions to the List of Approved End-Users and Respective Eligible Items for the People's Republic of China (PRC) Under Authorization Validated End-User (VEU)'' (RIN0694–AE61) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1485. A communication from the Associate Bureau Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Part 90 of the Commission's Rules'' (WP Docket No. 07–100) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1486. A communication from the Deputy Chief Counsel for Regulations, Transportation Security Administration, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Rail Transportation Security'' (RIN1652–AA51) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1487. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Keweenaw Waterway, Houghton, MI'' ((RIN1625–AA09)(Docket No. USCG–2009–0132)) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1488. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Intracoastal Waterway (ICW), Beach Thorofare, Atlantic City, NJ'' ((RIN1625–AA09)(Docket No. USCG–2008–0995)) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1489. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; San Diego Bay, San Diego, CA'' ((RIN1625–AA00)(Docket No. USCG–2009–0044)) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1490. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Jordan Bridge Demolition, Elizabeth River, Chesapeake and Portsmouth, VA'' ((RIN1625–AA00)(Docket No. USCG–2009–0217)) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1491. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; April to May Naval Underwater Detonation; Northwest Harbor, San Clemente Island, CA'' ((RIN1625–AA00)(Docket No. USCG–2009–0222)) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1492. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Sea World Spring Nights; Mission Bay, San Diego, California'' ((RIN1625–AA00)(Docket No. USCG–2009–0154)) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1493. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Red River, Minnesota'' ((RIN1625–AA00)(Docket No. USCG–2009–0240)) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1494. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Waters surrounding Berth 7 at the Port of Oakland, San Francisco Bay, CA'' ((RIN1625–AA00)(Docket No. USCG–2009–0278)) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1495. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Areas: Herbert C. Bonner Bridge, Oregon Inlet, NC'' ((RIN1625–AA11)(Docket No. USCG–2009–0225)) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1496. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulation; Volvo Ocean Race 2009, Nahant, Boston Harbor, Massachusetts'' ((RIN1625–AA08)(Docket No. USCG–2008–1268)) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1497. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Adequacy of Iowa Municipal Solid Waste Landfill Permit Program'' (FRL–8899–7) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Environment and Public Works.

EC–1498. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''American Recovery and Reinvestment Act of 2009 (Recovery Act) Addendum to Supplemental Funding for Brownfields Revolving Loan Fund (RLF) Grantees'' (FRL–8899–1) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Environment and Public Works.

EC–1499. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania: Transportation Conformity Requirement'' (FRL–8898–4) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Environment and Public Works.

EC–1500. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Morpholine 4–C6–12 Acyl Derivatives; Exemption from the Requirement of a Tolerance'' (FRL–8409–1) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Environment and Public Works.

EC–1501. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pennsylvania: Final Authorization of State Hazardous Waste Management Program Revisions'' (FRL–8898–7) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Environment and Public Works.

EC–1502. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Protection of Stratospheric Ozone: The 2009 Critical Use Exemption from the Phaseout of Methyl Bromide'' (FRL–8899–5) received in the Office of the President of the Senate on April 29, 2009; to the Committee on Environment and Public Works.

EC–1503. A communication from the Acting Officer for Civil Rights and Civil Liberties, Department of Homeland Security, transmitting, pursuant to law, a report entitled ''No FEAR Act: Fiscal Year 2008 Annual Report to Congress''; to the Committee on Homeland Security and Governmental Affairs.

EC–1504. A communication from the Acting Officer for Civil Rights and Civil Liberties, Department of Homeland Security, transmitting, pursuant to law, a report entitled ''U.S. Department of Homeland Security's Office for Civil Rights and Civil Liberties First Quarter Fiscal Year 2009 Report to Congress''; to the Committee on Homeland Security and Governmental Affairs.

EC–1505. A communication from the Deputy General Counsel and Designated Reporting Official, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, the report of a nomination in the position of Deputy Director of National Drug Control Policy, received in the Office of the President of the Senate on April 30, 2009; to the Committee on the Judiciary.

EC–1506. A communication from the Federal Register Liaison Officer of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Establishment of the Haw River Valley Viticultural Area (2007R–179P)'' (RIN1513–AB45) received in the

Office of the President of the Senate on April 30, 2009; to the Committee on the Judiciary.

EC–1507. A communication from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled ''USERRA Quarterly Report to Congress; Second Quarter of FY 2009''; to the Committee on Veterans' Affairs.

EC–1508. A communication from the Acting Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a quarterly report entitled, ''Acceptance of Contributions for Defense Programs, Projects, and Activities; Defense Cooperation Account''; to the Committee on Armed Services.

EC–1509. A communication from the Federal Register Liaison Officer of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Increase in Tax Rates on Tobacco Products and Cigarette Papers and Tubes; Floor Stocks Tax on Certain Tobacco Products, Cigarette Papers, and Cigarette Tubes; and Changes to Basis for Denial, Suspension, or Revocation of Permits (2009R–118P)'' (RIN1513–AB70) received in the Office of the President of the Senate on April 30, 2009; to the Committee on Finance.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. BINGAMAN for the Committee on Energy and Natural Resources.

*Kristina M. Johnson, of Maryland, to be Under Secretary of Energy.

*Steven Elliot Koonin, of California, to be Under Secretary for Science, Department of Energy.

*Ines R. Triay, of New Mexico, to be an Assistant Secretary of Energy (Environmental Management).

*Hilary Chandler Tompkins, of New Mexico, to be Solicitor of the Department of the Interior.

*Scott Blake Harris, of Virginia, to be General Counsel of the Department of Energy.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SHELBY:

S. 932. A bill to repeal the current Internal Revenue Code and replace it with a flat tax, thereby guaranteeing economic growth and greater fairness for all Americans; to the Committee on Finance.

By Mr. LEVIN (for himself, Mr. VOINOVICH, Ms. STABENOW, Mr. SCHUMER, Mr. DURBIN, Mr. BROWN, Mrs. GILLIBRAND, and Ms. KLOBUCHAR):

S. 933. A bill to amend the Federal Water Pollution Control Act and the Great Lakes Legacy Act of 2002 to reauthorize programs to address remediation of contaminated sediment; to the Committee on Environment and Public Works.

By Mr. HARKIN (for himself, Ms. MURKOWSKI, Mr. CONRAD, Mr. BENNET, Mr. CASEY, Mr. LEAHY, Ms. KLOBUCHAR, Mrs. GILLIBRAND, and Mr. BROWN):

S. 934. A bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren and protect the Federal investment in the national school lunch and breakfast programs by updating the national school nutrition standards for foods and beverages sold outside of school meals to conform to current nutrition science; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CONRAD (for himself, Mr. HATCH, Mr. CRAPO, Mr. ROBERTS, Mr. WICKER, Mr. VITTER, Mr. VOINOVICH, Mr. CHAMBLISS, Mr. ISAKSON, Mr. COCHRAN, Mr. BUNNING, Mr. KERRY, Ms. STABENOW, Mr. HARKIN, Mr. WYDEN, Mr. SPECTER, and Mr. ALEXANDER):

S. 935. A bill to extend subsections (c) and (d) of section 114 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) to provide for regulatory stability during the development of facility and patient criteria for long-term care hospitals under the Medicare program, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. VOINOVICH, Mr. WHITEHOUSE, Mr. MENENDEZ, and Mr. BROWN):

S. 936. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for sewer overflow control grants; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself, Mr. WHITEHOUSE, and Mr. MENENDEZ):

S. 937. A bill to amend the Federal Water Pollution Control Act to ensure that sewage treatment plants monitor for and report discharges of raw sewage, and for other purposes; to the Committee on Environment and Public Works.

By Ms. LANDRIEU (for herself, Mr. BURR, Mr. DODD, Mr. LEVIN, Mr. BEGICH, Mrs. HAGAN, Mr. BAYH, Mr. JOHNSON, Mr. CASEY, Mrs. LINCOLN, and Mrs. GILLIBRAND):

S. 938. A bill to require the President to call a White House Conference on Children and Youth in 2010; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU:

S. 939. A bill to establish national and State putative father registries, to make grants to States to promote permanent families for children and responsible fatherhood, and for other purposes; to the Committee on Finance.

By Mr. REID (for himself and Mr. ENSIGN):

S. 940. A bill to direct the Secretary of the Interior to convey to the Nevada System of Higher Education certain Federal land located in Clark and Nye counties, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAPO (for himself and Mr. LEAHY):

S. 941. A bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes; to the Committee on the Judiciary.

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

S. 942. A bill to prevent the abuse of Government charge cards; to the Committee on Homeland Security and Governmental Affairs.

By Mr. THUNE:

S. 943. A bill to amend the Clean Air Act to permit the Administrator of the Environmental Protection Agency to waive the lifecycle greenhouse gas emission reduction requirements for renewable fuel production, and for other purposes; to the Committee on Environment and Public Works.

By Mr. FEINGOLD:

S. 944. A bill to amend title 10, United States Code, to require the Secretaries of the military departments to give wounded members of the reserve components of the Armed Forces the option of remaining on active duty during the transition process in order to continue to receive military pay and allowances, to authorize members to reside at their permanent places of residence during the process, and for other purposes; to the Committee on Armed Services.

By Mr. FEINGOLD (for himself, Mr. KENNEDY, Mr. KOHL, and Mr. REID):

S. 945. A bill to require the Secretary of the Treasury to mint coins in commemoration of Robert M. La Follette, Sr., in recognition of his important contributions to the Progressive movement, the State of Wisconsin, and the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LIEBERMAN:

S. 946. A bill to amend the Federal Power Act to provide additional legal authorities to adequately protect the critical electric infrastructure against cyber attack, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. LINCOLN (for herself and Mr. ROBERTS):

S. 947. A bill to amend title XVIII of the Social Security Act to provide for the treatment of certain physician pathology services under the Medicare program; to the Committee on Finance.

By Mr. DORGAN (for himself and Mr. COBURN):

S. 948. A bill to provide for the Office of Management and Budget to direct all executive departments and agencies to submit a separate category for administrative expenses when submitting appropriations requests and for a reduction in such administrative expenses for fiscal years 2010 through 2013; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BINGAMAN (for himself, Ms. MURKOWSKI, Mr. DORGAN, Mr. VOINOVICH, Ms. STABENOW, Mr. LUGAR, and Mrs. SHAHEEN):

S. 949. A bill to improve the loan guarantee program of the Department of Energy under title XVII of the Energy Policy Act of 2005, to provide additional options for deploying energy technologies, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. LINCOLN (for herself, Mr. GRAHAM, and Mr. SPECTER):

S. 950. A bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat Medicare beneficiaries without a requirement for a physician referral, and for other purposes; to the Committee on Finance.

By Mr. BROWNBACK (for himself, Mr. INOUYE, Mr. BAUCUS, Mrs. BOXER, Mr. CRAPO, Ms. CANTWELL, Mr. COBURN, Mr. HARKIN, Mr. LIEBERMAN, and Mr. TESTER):

S.J. Res. 14. A joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the Federal Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. FEINSTEIN (for herself, Ms. COLLINS, Mr. AKAKA, Mrs. BOXER, Mr. BROWN, Ms. CANTWELL, Mr. FEINGOLD, Mr. KERRY, Mr. LEVIN, Mr. SANDERS, and Mr. WHITEHOUSE):

S. Res. 121. A resolution designating May 15, 2009, as ''Endangered Species Day''; to the Committee on the Judiciary.

By Mr. MENENDEZ (for himself, Mr. HATCH, Mr. BINGAMAN, Mr. KENNEDY, Mr. DURBIN, Mrs. BOXER, Mr. SCHUMER, Mr. UDALL of New Mexico, Mr. LAUTENBERG, Mr. FEINGOLD, Mrs. GILLIBRAND, Mr. CORNYN, Mr. CRAPO, Mr. MARTINEZ, Mr. COCHRAN, Mr. NELSON of Florida, and Ms. STABENOW):

S. Res. 122. A resolution designating April 30, 2009, as ''Dia de los Ninos: Celebrating Young Americans'', and for other purposes; considered and agreed to.

By Mr. WEBB:

S. Res. 123. A resolution expressing support for designation of May 2, 2009, as ''Vietnamese Refugees Day''; considered and agreed to.

By Mr. FEINGOLD (for himself, Mr. KAUFMAN, Mr. LUGAR, Mr. LEAHY, Mr. DURBIN, Mr. KERRY, Mr. CASEY, Mr. LIEBERMAN, Mr. ISAKSON, Mr. CARDIN, and Mr. MENENDEZ):

S. Res. 124. A resolution recognizing the threats to press freedom and expression around the world and reaffirming press freedom as a priority in the efforts of the United States to promote democracy and good governance, on the occasion of World Press Freedom Day on May 3, 2009; considered and agreed to.

By Mr. CASEY (for himself and Mr. BROWNBACK):

S. Con. Res. 22. A concurrent resolution supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month 2009; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 144

At the request of Mr. KERRY, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 144, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 256

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 256, a bill to enhance the ability to combat methamphetamine.

S. 358

At the request of Mr. CORNYN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 358, a bill to ensure the safety of members of the United States Armed Forces while using expeditionary facilities, infrastructure, and equipment supporting United States military operations overseas.

S. 428

At the request of Mr. DORGAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 428, a bill to allow travel between the United States and Cuba.

S. 473

At the request of Mr. DURBIN, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 473, a bill to establish the Senator Paul Simon Study Abroad Foundation.

S. 475

At the request of Mr. BURR, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 475, a bill to amend the Servicemembers Civil Relief Act to guarantee the equity of spouses of military personnel with regard to matters of residency, and for other purposes.

S. 484

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 484, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 493

At the request of Mr. CASEY, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 493, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of ABLE accounts for the care of family members with disabilities, and for other purposes.

S. 495

At the request of Mr. CARDIN, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 495, a bill to increase public confidence in the justice system and address any unwarranted racial and ethnic disparities in the criminal process.

S. 565

At the request of Mr. DURBIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 565, a bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

S. 581

At the request of Mr. BENNET, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. 581, a bill to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to require the exclusion of combat pay from income for purposes of determining eligibility for child nutrition programs and the special supplemental nutrition program for women, infants, and children.

S. 593

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 593, a bill to ban the use of bisphenol A in food containers, and for other purposes.

S. 614

At the request of Mrs. HUTCHISON, the names of the Senator from Florida (Mr. MARTINEZ) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 614, a bill to award a Congressional Gold Medal to the Women Airforce Service Pilots (''WASP'').

S. 623

At the request of Mr. ROCKEFELLER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 623, a bill to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Service Act, and the Internal Revenue Code of 1986 to prohibit preexisting condition exclusions in group health plans and in health insurance coverage in the group and individual markets.

S. 624

At the request of Mr. DURBIN, the names of the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 624, a bill to provide 100,000,000 people with first-time access to safe drinking water and sanitation on a sustainable basis by 2015 by improving the capacity of the United States Government to fully implement the Senator Paul Simon Water for the Poor Act of 2005.

S. 634

At the request of Mr. HARKIN, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 634, a bill to amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education.

S. 645

At the request of Mrs. LINCOLN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 645, a bill to amend title 32, United States Code, to modify the Department of Defense share of expenses under the National Guard Youth Challenge Program.

S. 690

At the request of Mr. CARDIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 690, a bill to amend the Neotropical Migratory Bird Conservation Act to reauthorize the Act.

S. 701

At the request of Mr. KERRY, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 701, a bill to amend title XVIII of the Social Security Act to improve access of Medicare beneficiaries to intravenous immune globulins (IVIG).

S. 717

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 717, a bill to modernize cancer research, increase access to preventative cancer services, provide cancer treatment and survivorship initiatives, and for other purposes.

S. 718

At the request of Mr. HARKIN, the name of the Senator from Illinois (Mr.

BURRIS) was added as a cosponsor of S. 718, a bill to amend the Legal Services Corporation Act to meet special needs of eligible clients, provide for technology grants, improve corporate practices of the Legal Services Corporation, and for other purposes.

S. 731

At the request of Mr. NELSON of Nebraska, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 731, a bill to amend title 10, United States Code, to provide for continuity of TRICARE Standard coverage for certain members of the Retired Reserve.

S. 794

At the request of Mr. BROWN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 794, a bill to amend title 10, United States Code, to modify certain retirement pay and grade authorities for service performed after eligibility for retirement, and for other purposes.

S. 795

At the request of Mr. HATCH, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 795, a bill to amend the Social Security Act to enhance the social security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 812

At the request of Mr. BAUCUS, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 812, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 815

At the request of Mr. NELSON of Florida, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 815, a bill to amend the Immigration and Nationality Act to exempt surviving spouses of United States citizens from the numerical limitations described in section 201 of such Act.

S. 833

At the request of Mr. SCHUMER, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from New Jersey (Mr. MENENDEZ), the Senator from Connecticut (Mr. DODD), the Senator from Vermont (Mr. SANDERS) and the Senator from New Mexico (Mr. UDALL) were added as cosponsors of S. 833, a bill to amend title XIX of the Social Security Act to permit States the option to provide Medicaid coverage for low-income individuals infected with HIV.

S. 846

At the request of Mr. DURBIN, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. KOHL), the Senator from West Virginia (Mr. BYRD), the Senator from Washington (Ms. CANTWELL), the Senator from Maryland (Mr. CARDIN), the Senator from New York (Mr. SCHUMER), the Senator from Oregon (Mr. WYDEN), the Senator from Connecticut (Mr. DODD), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Iowa (Mr. HARKIN), the Senator from Vermont (Mr. LEAHY), the Senator from Ohio (Mr. VOINOVICH), the Senator from Mississippi (Mr. COCHRAN), the Senator from Hawaii (Mr. INOUYE), the Senator from Arizona (Mr. MCCAIN), the Senator from Rhode Island (Mr. REED) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. 846, a bill to award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty.

S. 891

At the request of Mr. BROWNBACK, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 891, a bill to require annual disclosure to the Securities and Exchange Commission of activities involving columbite-tantalite, cassiterite, and wolframite from the Democratic Republic of Congo, and for other purposes.

S. 904

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 904, a bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes.

S. 908

At the request of Mr. BAYH, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD (for himself, Mr. HATCH, Mr. CRAPO, Mr. ROBERTS, Mr. WICKER, Mr. VITTER, Mr. VOINOVICH, Mr. CHAMBLISS, Mr. ISAKSON, Mr. COCHRAN, Mr. BUNNING, Mr. KERRY, Ms. STABENOW, Mr. HARKIN, Mr. WYDEN, Mr. SPECTER, and Mr. ALEXANDER):

S. 935. A bill to extend subsections (c) and (d) of section 114 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) to provide for regulatory stability during the development of facility and patient criteria for long-term care hospitals under the Medicare program, and for other purposes; to the Committee on Finance.

Mr. CONRAD. Mr. President, today I am introducing legislation that would extend reasonable measures to protect access to long-term care hospitals, while ensuring that these institutions are admitting the appropriate type of patients. I am pleased to be introducing the bill along with my colleague, Senator HATCH, and I urge my colleagues to consider cosponsoring this cost-saving proposal.

Long Term Acute Care hospitals, or LTAC hospitals, serve a vital role in the Medicare program by providing care to beneficiaries with clinically complex conditions that need hospital care for extended periods of time. I am happy to have two of these hospitals in North Dakota, one in Fargo and one in Mandan. They are a vital part of the North Dakota continuum of care.

While these hospitals provide important health services to very frail individuals, the Centers for Medicare and Medicaid Services, CMS, became concerned with the rapid growth in these facilities, and as a result began to arbitrarily cut LTAC hospital payments across-the-board. The Medicare, Medicaid and SCHIP Extension Act of 2007, MMSEA, enacted important changes that included the development of much-needed patient and facility certification criteria to assure that the right patient is seen in the right post-acute care setting. This law issued a moratorium on new facilities and expansions of older facilities and provided regulatory relief to protect patient access to LTAC hospitals while patient criteria are being developed. The legislation I am introducing today would extend these provisions by two years to provide stability to these hospitals and the patients they serve as CMS considers payment bundles and other changes in post-acute care.

As Chairman of the Budget Committee, I have a unique appreciation for the enormous fiscal challenges that face our country and respect CMS's efforts to reduce growth in Medicare. We should address the growth in LTAC hospitals, but we also want to ensure that there is a place for patients who truly need long-term hospital stays.

It was not easy for the LTAC hospitals in North Dakota and across the country to support legislation that restricts their payments, but I compliment them for working with me to put forward a constructive public policy proposal. Long-term care hospitals serve a vital role in our health care system, and we must protect access to these facilities for those who truly need it. But we can also take responsible steps to ensure that our federal tax dollars are well spent and directed to the most appropriate level of care. I believe my legislation achieves this balance and urge my colleagues to support this measure.

Mr. HATCH. Mr. President, I am pleased to join my friend, Senator KENT CONRAD, and others in introducing the Medicare Long-Term Care Hospital Improvement Act of 2009. This legislation would help ensure that Medicare beneficiaries continue to have access to long-term, acute-care,

LTAC, hospitals. These hospitals provide inpatient care to Medicare beneficiaries who spend at least 25 days in the hospital. Typically, the average patient stay in an acute care hospital is only six days. We have several LTAC hospitals and facilities in Salt Lake, Provo, and Bountiful, UT.

Our bill would extend for two more years the LTAC hospital moratorium included in the Medicare, Medicaid, and SCHIP Extension Act of 2007, MMSEA, P.L. 110–173. While MMSEA's LTAC hospital provisions helped the LTAC hospitals, they also addressed important issues raised by the Centers for Medicare and Medicaid Services, CMS, regarding these hospitals. Under MMSEA, new LTAC hospitals would not be allowed to open until the three year moratorium ends in 2010—the intent was to give CMS time to develop new federal standards on LTAC patient criteria. The bill that we are introducing today would extend the MMSEA moratorium for another 2 years.

To my friends in the hospital community and to those responsible for issuing federal regulations impacting the hospital community, I urge you to work together to address some of the valid concerns that have been raised with regard to LTAC hospitals. But I want these concerns addressed fairly so that beneficiaries will continue to have access to quality care and choice of long-term care coverage.

I also believe that while most LTAC hospitals provide good care in many parts of the country, the industry must do a better job convincing Congress and Federal agencies that the type of care you provide is valuable and necessary. Only truly sick patients should go to LTAC hospitals. Less medically-complex patients should be seen at less intensive facilities.

It is my hope that Federal officials making important decisions regarding LTACs get the job done. Five years ago, LTAC hospitals were told that they needed new standards and yet, we have made limited progress in this area. You need to finish this important job once and for all! It needs to be done in partnership with the LTAC community. Hopefully, the introduction of this bill will get the ball rolling in this area.

Finally, President Obama's budget guidelines for fiscal year 2010 has a bundling proposal that would include the payment of post-acute care with the hospital payment system. The Senate Finance Committee is considering a similar proposal. Therefore, I do not want to leave the impression with anyone that the introduction of this legislation is meant to delay such a proposal from moving forward. However, I do believe that should bundling be seriously considered by Congress, all stakeholders should be included in those discussions, including the LTACH hospitals.

I look forward to working with my Senate colleagues on this important bill.

By Mr. REID (for himself and Mr. ENSIGN):

S. 940. A bill to direct the Secretary of the Interior to convey to the Nevada System of Higher Education certain Federal land located in Clark and Nye counties, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today with my good friend Senator ENSIGN to introduce the Southern Nevada Higher Education Land Act of 2009. This bill will expand opportunities for higher education in one of the nation's fastest growing areas, southern Nevada.

In July 1862, President Abraham Lincoln signed the Land Grant College Act into law, creating a higher education legacy that continues to benefit our country today. That bill, now referred to as the Morrill Act, provided 30,000 acres of Federal land per Member of Congress to establish institutions of higher education in each State. Today, thanks in large part to the foresight of Senator Justin Smith Morrill from Vermont and others from his time, this Nation has one of the finest public university systems in the world.

Among the many universities established as a result of this forward-looking legislation was the University of Nevada. The State's first university was originally founded in Elko in 1874. Two years later, Nevada's state legislature voted to move the university to its current home in Reno. The University of Nevada remained the State's only higher education institution for 75 years.

From these humble beginnings, the State of Nevada has expanded its higher education system to now include two research universities, one State college, one research institution, and four community colleges. The Nevada System of Higher Education, which was formed in 1968 and encompasses all eight institutions, has grown to serve roughly 98,000 degree-seeking students.

As the State of Nevada continues to grow, so too must its university system. With over 2 million residents in 2007, greater Las Vegas is the fourth-largest metropolitan area in the Mountain West. In this decade alone, the area's population has grown by 31 percent, five times faster than the Nation as a whole. We must expand higher education opportunities to meet the demands of this growing region.

Consider the following—bthe University of Nevada, Las Vegas, with 28,000 students and 3,300 faculty and staff, is the fourth fastest-growing research university in the Nation. The College of Southern Nevada, also in Las Vegas, serves 41,000 students and its three urban campuses are at near capacity. The town of Pahrump, 60 miles from Las Vegas in rural Nye County, has grown by 20 percent since 2000. Great Basin College's small branch campus in Pahrump uses high school classrooms at night to serve the city's 41,000 residents.

Our legislation will make selected parcels of Federal lands available for the future growth of the university system. Land will be provided for new campuses for the University of Nevada, Las Vegas; the College of Southern Nevada; and a Pahrump campus of Great Basin College. The current campuses for these three institutions comprise 1,150 acres in southern Nevada. With the passage of this legislation, an additional 2,400 acres will be available for new classroom, research, and residential facilities to help further the missions of these three fine institutions.

To establish these new campuses, three parcels of land would be conveyed from the Bureau of Land Management, BLM, to the Nevada System of Higher Education. Two of the parcels are located in Clark County, within the Southern Nevada Public Land Management Act, SNPLMA, disposal boundary. The third parcel is located in Pahrump, west of Las Vegas, in Nye County. BLM has designated all of these parcels for disposal because they are surrounded by development and are difficult to manage.

It is important to point out that the land our legislation conveys for the University of Nevada, Las Vegas borders Nellis Air Force Base. Nellis was once on the outskirts of town, but now development is on its doorstep. In order to protect the mission of the Nellis Air Force base, we have put a special provision in the legislation requiring that the university system and Air Force sign a binding agreement regarding development plans for the campus. The university system and the Air Force worked together on this issue for the last 3 years and have found a middle ground that will serve the interests of both parties. We greatly appreciate the efforts of the university system and the Air Force to make this work.

This same land bordering Nellis was once used as a small arms range during World War II and will need to be cleaned up before it can be conveyed to the university system. Because it will take time to accomplish this, our legislation allows the land to be conveyed in phases, as the remediation is completed.

This proposal to expand higher education opportunities in southern Nevada has been welcomed by area leaders. City and county officials have worked closely with the Nevada System of Higher Education to plan the development of world-class facilities in their communities. These facilities are critical to meeting the challenge of diversifying their economies and attracting and growing knowledge industries in the area.

I also want to note that a long-time champion of this legislation, and especially the Pahrump campus, passed away recently. Bob Swadell lived a life of service. He saw action in Korea where he earned a Bronze Star and later worked for the Central Intelligence Agency. More recently, Mr. Swadell devoted a great deal of his time to looking out for the future of

Pahrump. I regret that he will not be with us to see this legislation move forward, but we will certainly keep his vision and spirit with us as we work on this important bill.

Just as the Morrill Act opened up Federal land to expand higher education across the Nation, I am hopeful that this important, though much more modest effort can do the same for the residents of southern Nevada. We look forward to working with Chairman BINGAMAN, Ranking Member MURKOWSKI and the other distinguished Members of the Energy and Natural Resources Committee to move this legislation in an expeditious manner.

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

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

S. 940

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 ''Southern Nevada Higher Education Land Act of 2009''.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) southern Nevada is one of the fastest growing regions in the United States, with 750,000 new residents added since 2000 and 250,000 residents expected to be added by 2010;

(2) the Nevada System of Higher Education serves more than 71,000 undergraduate and graduate students in southern Nevada, with enrollment in the System expected to grow by 21 percent during the next 10 years, which would bring enrollment to a total of 85,000 students in the System;

(3) the Nevada System of Higher Education campuses in southern Nevada comprise 1,200 acres, one of the smallest land bases of any major higher education system in the western United States;

(4) the University of Nevada, Las Vegas, with 27,903 students and 3,000 faculty and staff, is the fourth fastest-growing research university in the United States;

(5) the College of Southern Nevada—

(A) serves more than 41,000 students each semester; and

(B) is near capacity at each of the 3 urban campuses of the College;

(6) Pahrump, located in rural Nye County, Nevada—

(A) has grown by 20 percent since 2000; and

(B) has a small satellite campus of Great Basin College to serve the 40,500 residents of Pahrump, Nevada; and

(7) the Nevada System of Higher Education needs additional land to provide for the future growth of the System, particularly for the University of Nevada, Las Vegas, the College of Southern Nevada, and the Pahrump campus of Great Basin College.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide additional land for a thriving higher education system that serves the residents of fast-growing southern Nevada;

(2) to provide residents of the State with greater opportunities to pursue higher education and the resulting benefits, which include increased earnings, more employment opportunities, and better health; and

(3) to provide communities in southern Nevada the economic and societal values of higher education, including economic growth, lower crime rates, greater civic participation, and less reliance on social services.

SEC. 3. DEFINITIONS.

In this Act:

(1) BOARD OF REGENTS.—The term ''Board of Regents'' means the Board of Regents of the Nevada System of Higher Education.

(2) CAMPUSES.—The term ''Campuses'' means the Great Basin College, College of Southern Nevada, and University of Las Vegas, Nevada, campuses.

(3) FEDERAL LAND.—The term ''Federal land'' means each of the 3 parcels of Bureau of Land Management land identified on the maps as ''Parcel to be Conveyed'', of which—

(A) approximately 40 acres is to be conveyed for the College of Southern Nevada;

(B) approximately 2,085 acres is to be conveyed for the University of Nevada, Las Vegas; and

(C) approximately 285 acres is to be conveyed for the Great Basin College.

(4) MAP.—The term ''Map'' means each of the 3 maps entitled ''Southern Nevada Higher Education Land Act'', dated July 11, 2008, and on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

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

(6) STATE.—The term ''State'' means the State of Nevada.

(7) SYSTEM.—The term ''System'' means the Nevada System of Higher Education.

SEC. 4. CONVEYANCES OF FEDERAL LAND TO THE SYSTEM.

(a) CONVEYANCES.—

(1) IN GENERAL.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) and section 1(c) of the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869(c)) and subject to all valid existing rights, the Secretary shall—

(A) not later than 180 days after the date of enactment of this Act, convey to the System, without consideration, all right, title, and interest of the United States in and to the Federal land for the Great Basin College and the College of Southern Nevada; and

(B) not later than 180 days after the receipt of certification of acceptable remediation of environmental conditions existing on the parcel to be conveyed for the University of Nevada, Las Vegas, convey to the System, without consideration, all right, title, and interest of the United States in and to the Federal land for the University of Nevada, Las Vegas.

(2) PHASES.—The Secretary may phase the conveyance of the Federal land under paragraph (1)(B) as remediation is completed.

(b) CONDITIONS.—

(1) IN GENERAL.—As a condition of the conveyance under subsection (a)(1), the Board of Regents shall agree in writing—

(A) to pay any administrative costs associated with the conveyance, including the costs of any environmental, wildlife, cultural, or historical resources studies;

(B) to use the Federal land conveyed for educational and recreational purposes;

(C) to release and indemnify the United States from any claims or liabilities that may arise from uses carried out on the Federal land on or before the date of enactment of this Act by the United States or any person;

(D) as soon as practicable after the date of the conveyance under subsection (a)(1), to erect at each of the Campuses an appropriate and centrally located monument that acknowledges the conveyance of the Federal land by the United States for the purpose of furthering the higher education of the citizens in the State; and

(E) to assist the Bureau of Land Management in providing information to the students of the System and the citizens of the State on—

(i) public land (including the management of public land) in the Nation; and

(ii) the role of the Bureau of Land Management in managing, preserving, and protecting the public land in the State.

(2) AGREEMENT WITH NELLIS AIR FORCE BASE.—

(A) IN GENERAL.—As a precondition of the conveyance of the Federal land for the University of Nevada, Las Vegas under subsection (a)(1)(B), the Board of Regents shall enter into a binding interlocal agreement with Nellis Air Force Base to preserve the long-term capability of Nellis Air Force Base.

(B) REQUIREMENTS.—The interlocal agreement entered into under subparagraph (A) and any related master plan shall require the mutual assent of the parties to the agreement.

(C) LIMITATION.—In no case shall the use of the Federal land conveyed under subsection (a)(1)(B) compromise the national security mission or avigation rights of Nellis Air Force Base.

(c) USE OF FEDERAL LAND.—

(1) IN GENERAL.—The System may use the Federal land conveyed under subsection (a)(1) for—

(A) any purpose relating to the establishment, operation, growth, and maintenance of the System; and

(B) any uses relating to the purposes, including residential and commercial development that would generally be associated with an institution of higher education.

(2) OTHER ENTITIES.—The System may—

(A) consistent with Federal and State law, lease, or otherwise provide property or space at, the Campuses, with or without consideration, to religious, public interest, community, or other groups for services and events that are of interest to the System or to any community located in southern Nevada;

(B) allow any other communities in southern Nevada to use facilities of the Campuses for educational and recreational programs of the community; and

(C) in conjunction with the city of Las Vegas, North Las Vegas, or Pahrump or Clark or Nye County plan, finance (including through the provision of cost-share assistance), construct, and operate facilities for the city of Las Vegas, North Las Vegas, or Pahrump or Clark or Nye County on the Federal land conveyed for educational or recreational purposes consistent with this section.

(d) REVERSION.—

(1) IN GENERAL.—If the Federal land or any portion of the Federal land conveyed under subsection (a)(1) ceases to be used for the System, the Federal land, or any portion of the Federal land shall, at the discretion of the Secretary, revert to the United States.

(2) UNIVERSITY OF NEVADA, LAS VEGAS.—If the System fails to complete the first building or show progression toward development of the University of Nevada, Las Vegas campus on the applicable parcels of Federal land by the date that is 50 years after the date of receipt of certification of acceptable remediation of environmental conditions, the parcels of the Federal land described in section 3(3)(B) shall, at the discretion of the Secretary, revert to the United States.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

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

S. 942. A bill to prevent the abuse of Government charge cards; to the Committee on Homeland Security and Governmental Affairs.

Mr. GRASSLEY. Mr. President, today, I am reintroducing the Government Charge Card Abuse Prevention Act to ensure that federal departments and agencies do not take the eye off the ball when it comes to spending the taxpayers' money. I have put in a lot of time and effort to call attention to instances of waste, fraud, and abuse using government charge cards while agencies were looking the other way. Now I want to make sure that they stay on top of this issue.

In 1998, the General Service Administration's, GSA, entered into a contract with a set of commercial banks to utilize charge cards, not unlike those used by businesses large and small and millions of consumers worldwide. This is called the SmartPay® program. These Government charge cards include government purchase cards, which are used for acquisition of commercial goods and services by agencies and paid directly by the agency, and Government travel cards, which are used to pay for individual Government travel expenses and issued in the name of individual government employees.

Government charge cards were intended as a low cost method to streamline government acquisition and travel processes. The whole idea was to adopt the best practices of the commercial sector. In the business sector, charge cards have been a success. They save time and money. The main reason they work so well is because the control environment in the private sector is rock solid and accountability is a fact of life. When a business is spending its own money, it is going to be sure that it accounts for every penny or it would not stay in business. As a result, in corporate America, if an employee is caught abusing a card, they'll lose it or get fired.

This was not the case when the Federal Government began using charge cards. Federal agencies did not put in place the necessary controls to make sure that all spending on charge cards was legitimate. When I started looking into this with the Government Accountability Office, GAO, we uncovered blatant examples of wasteful spending like LA-Z-Boy reclining rocking chairs, kitchen appliances, and even a sapphire ring being paid for with Government purchase cards, with the American taxpayer paying the bill.

Government travel cards have been used for gambling, sporting events, concerts, cruises, and even gentlemen's clubs and legalized brothels! While travel cards are not paid directly with taxpayers' money like purchase cards, failure by employees to repay these cards results in the loss of millions of dollars in rebates to the federal government. Also, when credit card companies are forced to charge off bad debt, they raise interest rates and fees on everyone else.

A series of GAO reports over the last decade have identified an inadequate and inconsistent control environment across numerous federal agencies with respect to both government purchase cards and Government travel cards. This has led to millions of dollars in taxpayers' money wasted. In some cases purchases were outright fraudulent, and others were of questionable need or were unnecessarily expensive. In each report it has issued, the GAO has made recommendations about what kind of controls need to be implemented to prevent such abuses from occurring in the future. In many cases, the same controls were often missing or inadequate, and therefore the same recommendations are repeated in report after report. One agency would promise to clean up its act, but then we would find the exact same problems with another. That is why I worked to develop legislation that would incorporate GAO's recommendations regarding some of the most basic controls needed in every agency to prevent abuse of government charge cards.

As a result of the pressure applied by the relentless oversight of Congress, the GAO, and agency Inspectors General, we have seen some progress toward establishing a better control environment. In fact, the Office of Management and Budget has issued a circular to agencies that seeks to bring about many of the controls we identified. However, this progress would not have been possible without the continual spotlight being shone on the problem and the threat of congressional action. It is also clear that we still have a way to go in stamping out abuse of government charge cards as evidenced by a GAO report on the internal controls for purchase cards governmentwide that came out just last year.

That report found that a weak control environment led to government purchase cards being used for items like iPods at NASA, internet dating and pornographic sites at the Postal Service, women's lingerie from a place called ''Seduction Boutique'' at the State Department that was supposedly for use during jungle training'', and over $642,000 over six years in fraudulent payments at the USDA for the cardholder's live-in boyfriend. These funds went for personal expenditures like gambling, car loan and mortgage payments, and other retail purchases. Clearly we still have a problem and that's why I'm determined to make sure this situation is fixed once and for all.

In addition to requiring federal agencies to establish a series of basic and vital internal controls that the GAO has found lacking in many cases, my bill would also provide that each agency Inspector General periodically conduct risk assessments of agency purchase card and travel card programs and perform periodic audits to identify potentially fraudulent, improper, and abusive use of cards. We have had great success working with Inspectors General using techniques like data mining to reveal instances of improper use of government charge cards. Having this information on an ongoing basis will help maintain and strengthen a rigorous system of internal controls to prevent future instances of waste, fraud, and abuse with government charge cards.

My bill also requires agencies to establish penalties so that employees who abuse government charge cards will face real and consistent consequences. This is necessary not only so that taxpayers know that those who would squander their money are held accountable, but also to send a message to other government employees that such behavior will not be tolerated. In fact, these penalties must include dismissal in serious circumstances.

This legislation has been revised a number of times with considerable input from the GAO as well as the Inspector General community and other stakeholders. I am also glad to have Chairman LIEBERMAN and Ranking Member COLLINS as original cosponsors of this bill. Their help, assistance, and support has been very much appreciated as this legislation has developed. The result is a carefully considered and targeted piece of legislation that I look forward to seeing become law. I know that will give me and a great many American taxpayers more peace of mind about how their money is being spent.

By Mr. FEINGOLD:

S. 944. A bill to amend title 10, United States Code, to require the Secretaries of the military departments to give wounded members of the reserve components of the Armed Forces the option of remaining on active duty during the transition process in order to continue to receive military pay and allowances, to authorize members to reside at their permanent places of residence during the process, and for other purposes; to the Committee on Armed Services.

Mr. FEINGOLD. Mr. President, the Armed Forces have come a long way in addressing the bureaucratic hurdles that have long plagued wounded service members transitioning out of the Services. However, much more remains to be done to ensure that wounded service members do not go without income, due to injuries sustained in the line of duty. Currently, many are going without compensation of any kind because they are never told about the patchwork of programs designed to care for them as they transition back to civilian life and into the VA. This has been an issue of particular concern for members of the Reserve Components. Therefore, Sen. MURKOWSKI and I are introducing the Wounded Warrior Transition Assistance Act to help ensure that wounded reservists and members of the Guard are informed of the various programs to compensate them for their injuries before they separate

from the military and to guarantee that there is no gap in income as they transition into the VA.

This bill was inspired by a young soldier from Wisconsin who came to me for assistance when he returned from Iraq with serious wounds. He had been separated from the Army without going through the medical discharge process even though he had sustained a serious injury that impaired his ability to work. No one had informed him that he may have been entitled to medical retirement, temporary disability retirement, combat-related special compensation or incapacitation pay due to the extent of his injuries. After his separation, it took several months for the VA to review all of his claims and begin compensating him for his injuries during which time his family struggled to get by. Now, nearly a year since he first contacted me, the Army has recognized its mistake and plans to evaluate him for medical retirement or placement on the temporary disability retirement list.

Unfortunately, this is a systemic issue. The Wisconsin National Guard has estimated that, in Wisconsin alone, there have been a dozen cases of wounded service members who were eligible for military compensation for their injuries who never received it and were instead sent home with nothing only to have to wait for the VA to process their claims. This has compromised their ability to focus on their recovery.

Members of my staff have been told by several officials within the Defense Department that they continue to see members of the Reserve Components given disparate and unequal treatment with regard to the medical discharge process. This legislation is urgently needed to ensure that wounded service members receive counseling about these issues before discharge so that they can make an educated decision about their treatment. Congress must act to convey the importance of this issue and to set a floor for how the Department will handle wounded members of the Reserve Components.

This bill would prohibit the discharge of wounded members of the Reserve Components until they have been evaluated for their eligibility for the various programs to assist wounded service members. The service member may elect to separate from the Armed Services after consulting with a JAG attorney. For those undergoing evaluation, the bill would ensure that they are returned to their home, if medically feasible, during the process. The Services currently have community-based wounded transition units established for this purpose.

If someone was prematurely discharged and cannot work due to his or her injury, the bill would require the relevant Service to return him or her to active duty, if the service member chooses to do so. It would also ensure that the Reserve Components have access to Defense Health Program funds. These measures will help ensure that future service members will not face the gap in income that created such a hardship for my constituent and his family. It is the least we can do.

In addition, this bill would ensure that wounded service members have trained advocates to help them navigate the entire medical discharge process. The fiscal year 2008 National Defense Authorization Act required the Defense Department to, among other things, provide service members with legal counsel during the physical disability evaluation process. In September 2008, the Government Accountability Office, GAO, found that only 5 of 35 Army treatment facilities had legal personnel dedicated to providing assistance during the disability evaluations process.

In addition, GAO has reported that there are still insufficient JAG attorneys to provide comprehensive legal support early in the evaluation process. According to Army staff, if attorneys counseled service members earlier in the discharge process, starting with the medical evaluation board process, service members could have a better understanding of what steps to take to ensure that they receive any compensation to which they may be entitled. Early outreach could also help to make the disability evaluation process proceed faster and more efficiently. This bill would require the Armed Services to hire sufficient personnel to provide comprehensive legal support early in the evaluation process.

At the same time, we should do everything possible to take advantage of veteran service officers who offer this counseling free of charge and at no cost to the federal government. Federal law requires commanders to make space available on base for chartered veteran service organizations that provide counseling to wounded service members. Therefore, I was extremely troubled to learn last year that several veteran service organizations that provide assistance to wounded service members, free of charge, including the Disabled American Veterans, the Veterans of Foreign Wars, the Paralyzed Veterans of America and the National Veterans Legal Services Project, were all having trouble accessing U.S. bases for the purpose of providing counseling to wounded service members.

This bill would reiterate that the Armed Services are required by law to provide the space needed for wounded service members to receive counseling from trained advocates, especially during this time of war when so many are returning with serious wounds. Furthermore, it requires the Services to broadly disseminate information on the existence of the Wounded Warrior Resource Center, which, among other things, provides legal referrals.

This bill should not be costly. The Army has requested about 20 additional attorneys. The vast majority of the wounded service members will be medically discharged with retirement pay or other compensation and will not be in need of the assistance provided by this bill. Furthermore, the requirement that the Services retain wounded service members until they have been evaluated will sunset after five years, at which time it is my hope that the rate of deployments and subsequent injuries will be vastly lower.

Nonetheless, I have provided an ample offset to cover the costs of the bill. According to the Office of Management and Budget, the Defense Department recovered over $600 million in overpayments to contractors over the last 4 years. The Department identified but did not recover an additional $273 million. The funds needed to provide for these wounded service members during the evaluation process would come from the recoupment of these overpayments.

The National Guard Bureau has informed me that this legislation would go a long way to closing one of the remaining gaps in care for those transitioning from the Armed Forces to the VA. I am pleased that the legislation has been endorsed by the Disabled American Veterans, the Iraq and Afghanistan Veterans of America, Military Officers Association of America, the National Guard Association of the U.S. and the enlisted National Guard Association of the U.S.

By Mr. FEINGOLD (for himself, Mr. KENNEDY, Mr. KOHL, and Mr. REID):

S. 945. A bill to require the Secretary of the Treasury to mint coins in commemoration of Robert M. La Follette, Sr., in recognition of his important contributions to the Progressive movement, the State of Wisconsin, and the United States; to the Committee on Banking, Housing, and Urban Affairs.

Mr. FEINGOLD. Mr. President, I wish today to honor the extraordinary life of Robert M. La Follette Sr. This weekend, people around my home State of Wisconsin, the U.S. and the world will celebrate the 100th anniversary of the Progressive Magazine, which was founded by Bob La Follette and his wife Belle Case La Follette. The Progressive has been a powerful force for change and a leading advocate for civil rights, civil liberties, women's rights, clean Government, and many other priorities since its inception 100 years ago.

Throughout his life, La Follette was known for his diligent service to the people of Wisconsin and to the people of the U.S. His dogged, full-steam-ahead approach to his life's work earned him the nickname ''Fighting Bob.''

Robert Marion La Follette, Sr., was born on June 14, 1855, in Primrose, a small town southwest of Madison in Dane County. He graduated from the University of Wisconsin Law School in 1879 and, after being admitted to the State bar, began his long career in public service as Dane County district attorney.

La Follette was elected to the U.S. House of Representatives in 1884, and he served three terms as a member of that body, where he was a member of the Ways and Means Committee.

After losing his campaign for reelection in 1890, La Follette returned to Wisconsin and continued to serve the people of my State as a judge. Upon his exit from Washington DC, a reporter wrote, La Follette ''is popular at home, popular with his colleagues, and popular in the House. He is so good a fellow that even his enemies like him.''

He was elected the 20th Governor of Wisconsin in 1900. He served in that office until 1906, when he stepped down in order to serve the people of Wisconsin in the U.S. Senate, where he remained until his death in 1925.

A founder of the national progressive movement, La Follette championed progressive causes as governor of Wisconsin and in the U.S. Congress. As governor, he advanced an agenda that included the country's first workers compensation system, direct election of U.S. Senators, and railroad rate and tax reforms. Collectively, these reforms would become known as the ''Wisconsin Idea.'' As governor, La Follette also supported cooperation between the State and the University of Wisconsin.

His terms in the House of Representatives and the Senate were spent fighting for women's rights, working to limit the power of monopolies, and opposing pork barrel legislation. La Follette also advocated electoral reforms, and he brought his support for the direct election of U.S. Senators to this body. His efforts were brought to fruition with the ratification of the Seventeenth Amendment in 1913. Fighting Bob also worked tirelessly to hold the Government accountable, and was a key figure in exposing the Teapot Dome Scandal.

La Follette earned the respect of such notable Americans as Frederick Douglass, Booker T. Washington and Harriet Tubman Upton for making civil rights one of his trademark issues. At a speech before the 1886 graduating class of Howard University, La Follette said, ''We are one people, one by truth, one almost by blood. Our lives run side by side, our ashes rest in the same soil. [Seize] the waiting world of opportunity. Separatism is snobbish stupidity, it is supreme folly, to talk of non-contact, or exclusion!''

La Follette ran for President three times, twice as a Republican and once on the Progressive ticket. In 1924, as the Progressive candidate for president, La Follette garnered approximately 17 percent of the popular vote and carried the State of Wisconsin.

La Follette's years of public service were not without controversy. In 1917, he filibustered a bill to allow the arming of U.S. merchant ships in response to a series of German submarine attacks. His filibuster was successful in blocking passage of this bill in the closing hours of the 64th Congress. Soon after, La Follette was one of only 6 Senators who voted against U.S. entry into World War I.

Fighting Bob was outspoken in his belief that the right to free speech did not end when war began. In the fall of 1917, La Follette gave a speech about the war in Minnesota, and he was misquoted in press reports as saying that he supported the sinking of the Lusitania. The Wisconsin State Legislature condemned his supposed statement as treason, and some of La Follette's Senate colleagues introduced a resolution to expel him. In response to this action, he delivered his seminal floor address, ''Free Speech in Wartime,'' on October 6, 1917. If you listen closely, you can almost hear his strong voice echoing through this chamber as he said: ''Mr. President, our government, above all others, is founded on the right of the people freely to discuss all matters pertaining to their government, in war not less than in peace, for in this government, the people are the rulers in war no less than in peace.''

Of the expulsion petition filed against him, La Follette said:

> I am aware, Mr. President, that in pursuance of this general campaign of vilification and attempted intimidation, requests from various individuals and certain organizations have been submitted to the Senate for my expulsion from this body, and that such requests have been referred to and considered by one of the Committees of the Senate.
>
> If I alone had been made the victim of these attacks, I should not take one moment of the Senate's time for their consideration, and I believe that other Senators who have been unjustly and unfairly assailed, as I have been, hold the same attitude upon this that I do. Neither the clamor of the mob nor the voice of power will ever turn me by the breadth of a hair from the course I mark out for myself, guided by such knowledge as I can obtain and controlled and directed by a solemn conviction of right and duty.

This powerful speech led to a Senate investigation of whether La Follette's conduct constituted treason. In 1919, following the end of World War I, the Senate dropped its investigation and reimbursed La Follette for the legal fees he incurred as a result of the expulsion petition and corresponding investigation. This incident is indicative of Fighting Bob's commitment to his ideals and of his tenacious spirit.

La Follette died on June 18, 1925, in Washington, DC, while serving Wisconsin in this body. His daughter noted, ''His passing was mysteriously peaceful for one who had stood so long on the battle line.'' Mourners visited the Wisconsin Capitol to view his body, and paid respects in a crowd nearing 50,000 people. La Follette's son, Robert M. La Follette, Jr., was elected to serve in the U.S. Senate after his father's death and served in this body for more than 20 years, following the progressive path blazed by his father.

La Follette has been honored a number of times for his unwavering commitment to his ideals and for his service to the people of Wisconsin and of the United States.

During the 109th Congress, I was proud to support Senate passage of a bill introduced in the House of Representatives by Congresswoman TAMMY BALDWIN that named the post office at 215 Martin Luther King, Jr., Boulevard in Madison in La Follette's honor. I commend Congresswomen BALDWIN for her efforts to pass that bill and I am pleased she is introducing House companion measures of the legislation I am introducing today in the Senate.

The Library of Congress recognized La Follette in 1985 by naming the Congressional Research Service reading room in the Madison Building in honor of both Fighting Bob and his son, Robert M. La Follette, Jr., for their shared commitment to the development of a legislative research service to support the U.S. Congress. In his autobiography, Fighting Bob noted that, as governor of Wisconsin, he ''made it a . . . policy to bring all the reserves of knowledge and inspiration of the university more fully to the service of the people. . . . Many of the university staff are now in state service, and a bureau of investigation and research established as a legislative reference library . . . has proved of the greatest assistance to the legislature in furnishing the latest and best thought of the advanced students of government in this and other countries.'' He went on to call this service ''a model which the federal government and ultimately every state in the union will follow.'' Thus, the legislative reference service that La Follette created in Madison served as the basis for his work to create the Congressional Research Service at the Library of Congress.

The La Follette Reading Room was dedicated on March 5, 1985, the 100th anniversary of Fighting Bob being sworn in for his first term as a Member of Congress.

Across the magnificent Capitol in National Statuary Hall, Fighting Bob is forever immortalized in white marble, still proudly representing the state of Wisconsin. His statue resides in the Old House Chamber, now known as National Statuary Hall, among those of other notable figures who have made their marks in American history. One of the few seated statues is that of Fighting Bob. Though he is sitting, he is shown with one foot forward, and one hand on the arm of his chair, as if he is about to leap to his feet and begin a robust speech.

When then-Senator John F. Kennedy's 5-member Special Committee on the Senate Reception Room chose La Follette as one of the ''Five Outstanding Senators'' whose portraits would hang outside of this chamber in the Senate reception room, he was described as being a ''ceaseless battler for the underprivileged'' and a ''courageous independent.'' Today, his painting still hangs just outside this chamber, where it bears witness to the proceedings of this body—and, perhaps, challenges his successors here to continue fighting for the social and government reforms he championed.

To honor Robert M. La Follette, Sr., during the week of the anniversary of

the Progressive Magazine, today I am introducing two pieces of legislation. I am pleased to be joined in this effort by the senior Senator from Wisconsin, Senator KOHL and the senior Senator from Massachusetts, Senator KENNEDY.

I am introducing a bill that would direct the Secretary of the Treasury to mint coins to commemorate Fighting Bob's life and legacy. The second bill that I am introducing today would authorize the President to posthumously award a gold medal on behalf of Congress to Robert M. La Follette, Sr. The minting of a commemorative coin and the awarding of the Congressional Gold Medal would be fitting tributes to the memory of Robert M. La Follette, Sr., and to his deeply held beliefs and long record of service to his State and to his country. I hope that my colleagues will support these proposals.

Let us never forget Robert M. La Follette, Sr.'s character, his integrity, his deep commitment to Progressive causes, and his unwillingness to waver from doing what he thought was right. The Senate has known no greater champion of the common man and woman, no greater enemy of corruption and cronyism, than ''Fighting Bob'' La Follette, and it is an honor to speak in the same chamber, and serve the same great State, as he did.

By Mr. BINGAMAN (for himself, Ms. MURKOWSKI, Mr. DORGAN, Mr. VOINOVICH, Ms. STABENOW, Mr. LUGAR, and Mrs. SHAHEEN):

S. 949. A bill to improve the loan guarantee program of the Department of Energy under title XVII of the Energy Policy Act of 2005, to provide additional options for deploying energy technologies, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I am pleased today to introduce the 21st Century Energy Technology Deployment Act with my colleagues Senators MURKOWSKI, DORGAN, VOINOVICH, STABENOW, LUGAR, and SHAHEEN. I would particularly like to thank Senator MURKOWSKI for her thoughtful input.

As I have said previously on this floor, I am a strong proponent of pricing carbon dioxide emissions in order to properly align the incentives of the marketplace to avoid the very real costs of catastrophic climate change. I am happy to see that discussion has begun both here and in the other body. However, we should be careful not to think that when we do price in the effects of carbon emissions, which I believe will happen, then we have solved the entire problem.

As the current economic downturn and credit climate make clear, even when we do get the incentives straight, that is no guarantee that the means will be available to developers and individuals to make the smart investments they want to make. That is where this bill comes in; to fill in critical financing gap and bring down the costs of the investments that will not only increase our climate and energy security, but help put the U.S. in a leadership position in these technologies that I believe will be in great demand in the coming years.

I hope that the Energy Committee will agree to include this provision in the comprehensive energy legislation the Committee is currently working on. I will have more to say about the measure as we get further along in that process.

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. 949

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 ''21st Century Energy Technology Deployment Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to promote the domestic development and deployment of clean energy technologies required for the 21st century through the improvement of existing programs and the establishment of a self-sustaining Clean Energy Deployment Administration that will provide for an attractive investment environment through partnership with and support of the private capital market in order to promote access to affordable financing for accelerated and widespread deployment of—

(1) clean energy technologies;

(2) advanced or enabling energy infrastructure technologies;

(3) energy efficiency technologies in residential, commercial, and industrial applications, including end-use efficiency in buildings; and

(4) manufacturing technologies for any of the technologies or applications described in this section.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATION.—The term ''Administration'' means the Clean Energy Deployment Administration established by section 6.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Administration.

(3) ADVISORY COUNCIL.—The term ''Advisory Council'' means the Energy Technology Advisory Council of the Administration.

(4) BREAKTHROUGH TECHNOLOGY.—The term ''breakthrough technology'' means a clean energy technology that—

(A) presents a significant opportunity to advance the goals developed under section 5, as assessed under the methodology established by the Advisory Council; but

(B) has generally not been considered a commercially ready technology as a result of high perceived technology risk or other similar factors.

(5) CLEAN ENERGY TECHNOLOGY.—The term ''clean energy technology'' means a technology related to the production, use, transmission, storage, control, or conservation of energy—

(A) that will—

(i) reduce the need for additional energy supplies by using existing energy supplies with greater efficiency or by transmitting, distributing, or transporting energy with greater effectiveness through the infrastructure of the United States;

(ii) diversify the sources of energy supply of the United States to strengthen energy security and to increase supplies with a favorable balance of environmental effects if the entire technology system is considered; or

(iii) contribute to a stabilization of atmospheric greenhouse gas concentrations thorough reduction, avoidance, or sequestration of energy-related emissions; and

(B) for which, as determined by the Administrator, insufficient commercial lending is available to allow for widespread deployment.

(6) COST.—The term ''cost'' has the meaning given the term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(7) DIRECT LOAN.—The term ''direct loan'' has the meaning given the term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(8) FUND.—The term ''Fund'' means the Clean Energy Investment Fund established by section 4(a).

(9) LOAN GUARANTEE.—The term ''loan guarantee'' has the meaning given the term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(10) NATIONAL LABORATORY.—The term ''National Laboratory'' has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

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

(12) SECURITY.—The term ''security'' has the meaning given the term in section 2 of the Securities Act of 1933 (15 U.S.C. 77b).

(13) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

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

(14) TECHNOLOGY RISK.—The term ''technology risk'' means the risks during construction or operation associated with the design, development, and deployment of clean energy technologies (including the cost, schedule, performance, reliability and maintenance, and accounting for the perceived risk), from the perspective of commercial lenders, that may be increased as a result of the absence of adequate historical construction, operating, or performance data from commercial applications of the technology.

SEC. 4. IMPROVEMENTS TO EXISTING PROGRAMS.

(a) CLEAN ENERGY INVESTMENT FUND.—.

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Clean Energy Investment Fund'', consisting of—

(A) such amounts as have been appropriated for administrative expenses to carry out title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.);

(B) such amounts as are deposited in the Fund under this Act and amendments made by this Act; and

(C) such sums as may be appropriated to supplement the Fund.

(2) EXPENDITURES FROM FUND.—

(A) IN GENERAL.—Notwithstanding section 1705(e) of the Energy Policy Act of 2005 (42 U.S.C. 16516(e)), amounts in the Fund shall be available to the Secretary for obligation without fiscal year limitation, to remain available until expended.

(B) ADMINISTRATIVE EXPENSES.—

(i) FEES.—Fees collected for administrative expenses shall be available without limitation to cover applicable expenses.

(ii) FUND.—To the extent that administrative expenses are not reimbursed through fees, an amount not to exceed 1.5 percent of the amounts in the Fund as of the beginning of each fiscal year shall be available to pay the administrative expenses for the fiscal

year necessary to carry out title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.).

(3) TRANSFERS OF AMOUNTS.—

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

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

(b) REVISIONS TO LOAN GUARANTEE PROGRAM AUTHORITY.—

(1) DEFINITION OF COMMERCIAL TECHNOLOGY.—Section 1701(1) of the Energy Policy Act of 2005 (42 U.S.C. 16511(1)) is amended by striking subparagraph (B) and inserting the following:

''(B) EXCLUSION.—The term 'commercial technology' does not include a technology if the sole use of the technology is in connection with—

''(i) a demonstration project; or

''(ii) a project for which the Secretary approved a loan guarantee.''.

(2) SPECIFIC APPROPRIATION OR CONTRIBUTION.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by striking subsection (b) and inserting the following:

''(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—

''(1) IN GENERAL.—No guarantee shall be made unless sufficient amounts to account for the cost are available—

''(A) in unobligated balances within the Clean Energy Investment Fund established under section 4(a) of the 21st Century Energy Technology Deployment Act;

''(B) as a payment from the borrower and the payment is deposited in the Clean Energy Investment Fund; or

''(C) in any combination of balances and payments described in subparagraphs (A) and (B), respectively.

''(2) LIMITATION.—The source of payments received from a borrower under paragraph (1)(B) shall not be a loan or other debt obligation that is made or guaranteed by the Federal Government.

''(3) RELATION TO OTHER LAWS.—Section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply to a loan or loan guarantee under this section.''.

(3) SUBROGATION.—Section 1702(g)(2) of the Energy Policy Act of 2005 (42 U.S.C. 16512(g)(2)) is amended—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B).

(4) FEES.—Section 1702(h) of the Energy Policy Act of 2005 (42 U.S.C. 16512(h)) is amended by striking paragraph (2) and inserting the following:

''(2) AVAILABILITY.—Fees collected under this subsection shall—

''(A) be deposited by the Secretary in the Clean Energy Investment Fund established under section 4(a) of the 21st Century Energy Technology Deployment Act; and

''(B) remain available to the Secretary for expenditure, without further appropriation or fiscal year limitation, for administrative expenses incurred in carrying out this title.

''(3) ADJUSTMENT.—The Secretary may adjust the amount or manner of collection of fees under this title as the Secretary determines is necessary to promote, to the maximum extent practicable, eligible projects under this title.''.

(5) PROCESSING.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by adding at the end the following:

''(k) ACCELERATED REVIEWS.—To the maximum extent practicable and consistent with sound business practices, the Secretary shall seek to consolidate reviews of applications for loan guarantees under this title such that decisions as to whether to enter into a commitment on an application can be issued not later than 180 days after the date of submission of a completed application.''.

(6) WAGE RATES.—Section 1705(c) of the Energy Policy Act of 2005 (42 U.S.C. 16516(c)) is amended by striking ''support under this section'' and inserting ''support under this title''.

SEC. 5. ENERGY TECHNOLOGY DEPLOYMENT GOALS.

(a) GOALS.—Not later than 1 year after the date of enactment of this Act, the Secretary, after consultation with the Advisory Council, shall develop and publish for review and comment in the Federal Register near-, medium-, and long-term goals (including numerical performance targets at appropriate intervals to measure progress toward those goals) for the deployment of clean energy technologies through the credit support programs established by this Act (including an amendment made by this Act) to promote—

(1) sufficient electric generating capacity using clean energy technologies to meet the energy needs of the United States;

(2) clean energy technologies in vehicles and fuels that will substantially reduce the reliance of the United States on foreign sources of energy and insulate consumers from the volatility of world energy markets;

(3) a domestic commercialization and manufacturing capacity that will establish the United States as a world leader in clean energy technologies across multiple sectors;

(4) installation of sufficient infrastructure to allow for the cost-effective deployment of clean energy technologies appropriate to each region of the United States;

(5) the transformation of the building stock of the United States to zero net energy consumption;

(6) the recovery, use, and prevention of waste energy;

(7) domestic manufacturing of clean energy technologies on a scale that is sufficient to achieve price parity with conventional energy sources;

(8) domestic production of commodities and materials (such as steel, chemicals, polymers, and cement) using clean energy technologies so that the United States will become a world leader in environmentally sustainable production of the commodities and materials;

(9) a robust, efficient, and interactive electricity transmission grid that will allow for the incorporation of clean energy technologies, distributed generation, and demand-response in each regional electric grid;

(10) sufficient availability of financial products to allow owners and users of residential, retail, commercial, and industrial buildings to make energy efficiency and distributed generation technology investments with reasonable payback periods; and

(11) such other goals as the Secretary, in consultation with the Advisory Council, determines to be consistent with the purposes of this Act.

(b) REVISIONS.—The Secretary shall revise the goals established under subsection (a), from time to time as appropriate, to account for advances in technology and changes in energy policy.

SEC. 6. CLEAN ENERGY DEPLOYMENT ADMINISTRATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the Department of Energy an administration to be known as the Clean Energy Deployment Administration, under the direction of the Administrator and the Board of Directors.

(2) STATUS.—

(A) IN GENERAL.—The Administration (including officers, employees, and agents of the Administration) shall not be responsible to, or subject to the authority, direction, or control of, any other officer, employee, or agent of the Department of Energy other than the Secretary, acting through the Administrator.

(B) EXEMPTION FROM REORGANIZATION.—The Administration shall be exempt from the reorganization authority provided under section 643 of the Department of Energy Reorganization Act (42 U.S.C. 7253).

(C) INSPECTOR GENERAL.—Section 12 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(i) in paragraph (1), by inserting ''the Administrator of the Clean Energy Deployment Administration;'' after ''Export-Import Bank;''; and

(ii) in paragraph (2), by inserting ''the Clean Energy Deployment Administration,'' after ''Export-Import Bank,''.

(3) OFFICES.—

(A) PRINCIPAL OFFICE.—The Administration shall—

(i) maintain the principal office of the Administration in the District of Columbia; and

(ii) for purposes of venue in civil actions, be considered to be a resident of the District of Columbia.

(B) OTHER OFFICES.—The Administration may establish other offices in such other places as the Administration considers necessary or appropriate for the conduct of the business of the Administration.

(b) ADMINISTRATOR.—

(1) IN GENERAL.—The Administrator shall be—

(A) appointed by the President, with the advice and consent of the Senate, for a 5-year term; and

(B) compensated at the annual rate of basic pay prescribed for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(2) DUTIES.—The Administrator shall—

(A) serve as the Chief Executive Officer of the Administration and Chairman of the Board;

(B) ensure that—

(i) the Administration operates in a safe and sound manner, including maintenance of adequate capital and internal controls (consistent with section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262));

(ii) the operations and activities of the Administration foster liquid, efficient, competitive, and resilient energy and energy efficiency finance markets;

(iii) the Administration carries out the purposes of this Act only through activities that are authorized under and consistent with this Act; and

(iv) the activities of the Administration and the manner in which the Administration is operated are consistent with the public interest;

(C) develop policies and procedures for the Administration that will—

(i) promote a self-sustaining portfolio of investments that will maximize the value of investments to effectively promote clean energy technologies;

(ii) promote transparency and openness in Administration operations;

(iii) afford the Administration with sufficient flexibility to meet the purposes of this Act; and

(iv) provide for the efficient processing of applications; and

(D) with the concurrence of the Board, set expected loss reserves for the support provided by the Administration consistent with section 7(a)(1)(C).

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The Board of Directors of the Administration shall consist of—

(A) the Secretary or the designee of the Secretary, who shall serve as an ex-officio voting member of the Board of Directors;

(B) the Administrator, who shall serve as the Chairman of the Board of Directors; and

(C) 7 additional members who shall—

(i) be appointed by the President, with the advice and consent of the Senate, for staggered 5-year terms; and

(ii) have experience in banking or financial services relevant to the operations of the Administration, including individuals with substantial experience in the development of energy projects, the electricity generation sector, the transportation sector, the manufacturing sector, and the energy efficiency sector.

(2) DUTIES.—The Board of Directors shall—

(A) oversee the operations of the Administration and ensure industry best practices are followed in all financial transactions involving the Administration;

(B) consult with the Administrator on the general policies and procedures of the Administration to ensure the interests of the taxpayers are protected;

(C) ensure the portfolio of investments are consistent with purposes of this Act and with the long-term financial stability of the Administration;

(D) ensure that the operations and activities of the Administration are consistent with the development of a robust private sector that can provide commercial loans or financing products; and

(E) not serve on a full-time basis, except that the Board of Directors shall meet at least quarterly to review, as appropriate, applications for credit support and set policies and procedures as necessary.

(3) REMOVAL.—An appointed member of the Board of Directors may be removed from office by the President for good cause.

(4) VACANCIES.—An appointed seat on the Board of Directors that becomes vacant shall be filled by appointment by the President, but only for the unexpired portion of the term of the vacating member.

(5) COMPENSATION OF MEMBERS.—An appointed member of the Board of Directors shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Board of Directors.

(d) ENERGY TECHNOLOGY ADVISORY COUNCIL.—

(1) IN GENERAL.—The Administration shall have an Energy Technology Advisory Council consisting of—

(A) 5 members selected by the Secretary; and

(B) 3 members selected by the Board of Directors of the Administration.

(2) QUALIFICATIONS.—The members of the Advisory Council shall—

(A) have relevant scientific expertise; and

(B) in the case of the members selected by the Secretary under paragraph (1)(A), include representatives of—

(i) the academic community;

(ii) the private research community;

(iii) National Laboratories;

(iv) the technology or project development community; and

(v) the commercial energy financing and operations sector.

(3) DUTIES.—The Advisory Council shall—

(A) develop and publish for comment in the Federal Register a methodology for assessment of clean energy technologies that will allow the Administration to evaluate projects based on the progress likely to be achieved per-dollar invested in maximizing the attributes of the definition of clean energy technology, taking into account the extent to which support for a clean energy technology is likely to accrue subsequent benefits that are attributable to a commercial scale deployment taking place earlier than that which otherwise would have occurred without the support; and

(B) advise on the technological approaches that should be supported by the Administration to meet the technology deployment goals established by the Secretary pursuant to section 5.

(4) TERM.—

(A) IN GENERAL.—Members of the Advisory Council shall have 5-year staggered terms, as determined by the Secretary and the Administrator.

(B) REAPPOINTMENT.—A member of the Advisory Council may be reappointed.

(5) COMPENSATION.—A member of the Advisory Council, who is not otherwise compensated as a Federal employee, shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Advisory Council.

(e) STAFF.—

(1) IN GENERAL.—The Administrator, in consultation with the Board of Directors, may—

(A) appoint and terminate such officers, attorneys, employees, and agents as are necessary to carry out this Act; and

(B) vest those personnel with such powers and duties as the Administrator may determine.

(2) DIRECT HIRE AUTHORITY.—

(A) IN GENERAL.—Notwithstanding section 3304 and sections 3309 through 3318 of title 5, United States Code, the Administrator may, on a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, recruit and directly appoint highly qualified critical personnel with specialized knowledge important to the function of the Administration into the competitive service.

(B) EXCEPTION.—The authority granted under subparagraph (A) shall not apply to positions in the excepted service or the Senior Executive Service.

(C) REQUIREMENTS.—In exercising the authority granted under subparagraph (A), the Administrator shall ensure that any action taken by the Administrator—

(i) is consistent with the merit principles of section 2301 of title 5, United States Code; and

(ii) complies with the public notice requirements of section 3327 of title 5, United States Code.

(D) TERMINATION OF EFFECTIVENESS.—The authority provided by this paragraph terminates effective on the date that is 2 years after the date of enactment of this Act.

(3) CRITICAL PAY AUTHORITY.—

(A) IN GENERAL.—Notwithstanding section 5377 of title 5, United States Code, and without regard to the provisions of that title governing appointments in the competitive service or the Senior Executive Service and chapters 51 and 53 of that title (relating to classification and pay rates), the Administrator may establish, fix the compensation of, and appoint individuals to critical positions needed to carry out the functions of the Administration, if the Administrator certifies that—

(i) the positions require expertise of an extremely high level in a financial, technical, or scientific field;

(ii) the Administration would not successfully accomplish an important mission without such an individual; and

(iii) exercise of the authority is necessary to recruit an individual who is exceptionally well qualified for the position.

(B) LIMITATIONS.—The authority granted under subparagraph (A) shall be subject to the following conditions:

(i) The number of critical positions authorized by subparagraph (A) may not exceed 20 at any 1 time in the Administration.

(ii) The term of an appointment under subparagraph (A) may not exceed 4 years.

(iii) An individual appointed under subparagraph (A) may not have been an Administration employee at any time during the 2-year period preceding the date of appointment.

(iv) Total annual compensation for any individual appointed under subparagraph (A) may not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3, United States Code.

(v) An individual appointed under subparagraph (A) may not be considered to be an employee for purposes of subchapter II of chapter 75 of title 5, United States Code.

(C) NOTIFICATION.—Each year, the Administrator shall submit to Congress a notification that lists each individual appointed under this paragraph.

SEC. 7. ADMINISTRATION FUNCTIONS.

(a) OPERATIONAL UNITS.—

(1) DIRECT SUPPORT.—

(A) IN GENERAL.—The Administration may issue direct loans, letters of credit, loan guarantees, insurance products, or such other credit enhancements or debt instruments (including participation as a co-lender or a member of a syndication) as the Administrator considers appropriate to deploy clean energy technologies if the Administrator has determined that deployment of the technologies would benefit or be accelerated by the support.

(B) ELIGIBILITY CRITERIA.—In carrying out this paragraph and awarding credit support to projects, the Administrator shall account for—

(i) how the technology rates based on an evaluation methodology established by the Advisory Council;

(ii) how the project fits with the goals established under section 5; and

(iii) the potential for the applicant to successfully complete the project.

(C) RISK.—

(i) EXPECTED LOAN LOSS RESERVE.—The Administrator shall establish an expected loan loss reserve to account for estimated losses attributable to activities under this section that is consistent with the purposes of—

(I) developing breakthrough technologies to the point at which technology risk is largely mitigated;

(II) achieving widespread deployment and advancing the commercial viability of clean energy technologies; and

(III) advancing the goals established under section 5.

(ii) INITIAL EXPECTED LOAN LOSS RESERVE.—Until such time as the Administrator determines sufficient data exist to establish an expected loan loss reserve that is appropriate, the Administrator shall consider establishing an initial rate of 10 percent for the portfolio of investments under this Act.

(iii) PORTFOLIO INVESTMENT APPROACH.—The Administration shall—

(I) use a portfolio investment approach to mitigate risk and diversify investments across technologies;

(II) to the maximum extent practicable and consistent with long-term self-sufficiency, weigh the portfolio of investments in

projects to advance the goals established under section 5; and

(III) consistent with the expected loan loss reserve established under this subparagraph, the purposes of this Act, and section 6(b)(2)(B), provide the maximum practicable percentage of support to promote breakthrough technologies.

(iv) LOSS RATE REVIEW.—

(I) IN GENERAL.—The Board of Directors shall review on an annual basis the loss rates of the portfolio to determine the adequacy of the reserves.

(II) REPORT.—Not later than 90 days after the date of the initiation of the review, the Administrator shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the review and any recommended policy changes.

(D) APPLICATION REVIEW.—

(i) IN GENERAL.—To the maximum extent practicable and consistent with sound business practices, the Administration shall seek to consolidate reviews of applications for credit support under this Act such that final decisions on applications can generally be issued not later than 180 days after the date of submission of a completed application.

(ii) ENVIRONMENTAL REVIEW.—In carrying out this Act, the Administration shall, to the maximum extent practicable—

(I) avoid duplicating efforts that have already been undertaken by other agencies (including State agencies acting under Federal programs); and

(II) with the advice of the Council on Environmental Quality and any other applicable agencies, use the administrative records of similar reviews conducted throughout the executive branch to develop the most expeditious review process practicable.

(E) WAGE RATE REQUIREMENTS.—

(i) IN GENERAL.—No credit support shall be issued under this section unless the borrower has provided to the Administrator reasonable assurances that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed in whole or in part by the Administration will be paid wages at rates not less than those prevailing on projects of a character similar to the contract work in the civil subdivision of the State in which the contract work is to be performed as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code.

(ii) LABOR STANDARDS.—With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

(2) INDIRECT SUPPORT.—

(A) IN GENERAL.—The Administration shall work to develop financial products and arrangements to both promote the widespread deployment of, and mobilize private sector support of credit and investment institutions for, clean energy technologies through securitization, indirect credit support, or other similar means of credit enhancement.

(B) FINANCIAL PRODUCTS.—The Administration—

(i) in cooperation with Federal, State, local, and private sector entities, shall develop debt instruments that provide for the aggregation of, or directly aggregate, projects for clean energy technology deployments on a scale appropriate for residential or commercial applications; and

(ii) may purchase, and make commitments to purchase, any debt instrument associated with the deployment of clean energy technologies for the purposes of enhancing the availability of private financing for clean energy technology deployments.

(C) DISPOSITION OF DEBT OR INTEREST.—The Administration may acquire, hold, and sell or otherwise dispose of, pursuant to commitments or otherwise, any debt associated with the deployment of clean energy technologies or interest in the debt.

(D) PRICING.—

(i) IN GENERAL.—The Administrator may establish requirements, and impose charges or fees, which may be regarded as elements of pricing, for different classes of sellers, servicers, or services.

(ii) CLASSIFICATION OF SELLERS AND SERVICERS.—For the purpose of clause (i), the Administrator may classify sellers and servicers as necessary to promote transparency and liquidity and properly characterize the risk of default.

(E) ELIGIBILITY.—The Administrator shall establish—

(i) eligibility criteria for loan originators, sellers, and servicers seeking support for portfolios of financial obligations relating to clean energy technologies so as to ensure the capability of the loan originators, sellers, and servicers to perform the functions required to maintain the expected performance of the portfolios; and

(ii) such criteria, standards, guidelines, and mechanisms such that, to the maximum extent practicable, loan originators and sellers will be able to determine the eligibility of loans for resale at the time of initial lending.

(F) SECONDARY MARKET SUPPORT.—

(i) IN GENERAL.—The Administration may lend on the security of, and make commitments to lend on the security of, any debt that the Administration has issued or is authorized to purchase under this section.

(ii) AUTHORIZED ACTIONS.—On such terms and conditions as the Administrator may prescribe, the Administration may, with the concurrence of the Board of Directors—

(I) borrow;

(II) give security;

(III) pay interest or other return; and

(IV) issue notes, debentures, bonds, or other obligations or securities.

(G) LENDING ACTIVITIES.—

(i) IN GENERAL.—The Administrator shall determine—

(I) the volume of the lending activities of the Administration; and

(II) the types of loan ratios, risk profiles, interest rates, maturities, and charges or fees in the secondary market operations of the Administration.

(ii) OBJECTIVES.—Determinations under clause (i) shall be consistent with the objectives of—

(I) providing an attractive investment environment for clean energy technologies;

(II) making the operations of the Administration self-supporting over the long term; and

(III) advancing the goals established under section 5.

(H) EXEMPT SECURITIES.—All securities issued or guaranteed by the Administration shall, to the same extent as securities that are direct obligations of or obligations guaranteed as to principal or interest by the United States, be considered to be exempt securities within the meaning of the laws administered by the Securities and Exchange Commission.

(b) OTHER AUTHORIZED PROGRAMS.—

(1) IN GENERAL.—The Secretary may delegate to the Administration the provision of financial services and program management for grant, loan, and other credit enhancement programs authorized under any other provision of law.

(2) ADMINISTRATION.—In administering any other program delegated by the Secretary, the Administration shall, to the maximum extent practicable (as determined by the Administrator)—

(A) administer the program in a manner that is consistent with the terms and conditions of this Act; and

(B) minimize the administrative costs to the Federal Government.

SEC. 8. FEDERAL CREDIT AUTHORITY.

(a) TRANSFER OF FUNCTIONS AND AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), on a finding by the Secretary and the Administrator that the Administration is sufficiently ready to assume the functions and that applicants to those programs will not be unduly adversely affected but in no case later than 18 months after the date of enactment of this Act, all of the functions and authority of the Secretary under title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.) and authorities established by this Act shall be transferred to the Administration.

(2) FAILURE TO TRANSFER FUNCTIONS.—If the functions and authorities are not transferred to the Administration in accordance with paragraph (1), the Secretary and the Administrator shall submit to Congress a report on the reasons for delay and an expected timetable for transfer of the functions and authorities to the Administration.

(3) EFFECT ON EXISTING RIGHTS AND OBLIGATIONS.—The transfer of functions and authority under this subsection shall not affect the rights and obligations of any party that arise under a predecessor program or authority prior to the transfer under this subsection.

(4) TRANSFER OF FUND AUTHORITY.—On transfer of functions pursuant to paragraph (1), the Administration shall have all authorities to make use of the Fund reserved for the Secretary before the transfer.

(5) USE.—Amounts in the Fund shall be available for discharge of liabilities and all other expenses of the Administration, including subsequent transfer to the respective credit program accounts.

(6) INITIAL INVESTMENT.—

(A) IN GENERAL.—On transfer of functions pursuant to paragraph (1), out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Fund to carry out this Act $10,000,000,000, to remain available until expended.

(B) RECEIPT AND ACCEPTANCE.—The Fund shall be entitled to receive and shall accept, and shall be used to carry out this Act, the funds transferred to the Fund under subparagraph (A), without further appropriation.

(7) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available by paragraphs (1) through (6), there are authorized to be appropriated to the Fund such sums as are necessary to carry out this Act.

(b) PAYMENTS OF LIABILITIES.—

(1) IN GENERAL.—Any payment made to discharge liabilities arising from agreements under this Act shall be paid out of the Fund or the associated credit program account, as appropriate.

(2) SECURITY.—The full faith and credit of the United States is pledged to the payment of all obligations entered into by the Administration pursuant to this Act.

(c) FEES.—

(1) IN GENERAL.—Consistent with achieving the purposes of this Act, the Administrator shall charge fees or collect compensation generally in accordance with commercial rates.

(2) AVAILABILITY OF FEES.—All fees collected by the Administration may be retained by the Administration and placed in

the Fund and may remain available to the Administration, without further appropriation or fiscal year limitation, for use in carrying out the purposes of this Act.

(3) BREAKTHROUGH TECHNOLOGIES.—The Administration shall charge the minimum amount in fees or compensation practicable for breakthrough technologies, consistent with the long-term viability of the Administration, unless the Administration first determines that a higher charge will not impede the development of the technology.

(4) ALTERNATIVE FEE ARRANGEMENTS.—The Administration may use such alternative arrangements (such as profit participation, contingent fees, and other valuable contingent interests) as the Administration considers appropriate to compensate the Administration for the expenses of the Administration and the risk inherent in the support of the Administration.

(d) COST TRANSFER AUTHORITY.—Amounts collected by the Administration for the cost of a loan or loan guarantee shall be transferred by the Administration to the respective credit program accounts.

(e) SUPPLEMENTAL BORROWING AUTHORITY.—In order to maintain sufficient liquidity for activities authorized under section 7(a)(2), the Administration may issue notes, debentures, bonds, or other obligations for purchase by the Secretary of the Treasury.

(f) PUBLIC DEBT TRANSACTIONS.—For the purpose of subsection (e)—

(1) the Secretary of the Treasury may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code; and

(2) the purposes for which securities may be issued under that chapter are extended to include any purchase under this subsection.

(g) MAXIMUM OUTSTANDING HOLDING.—The Secretary of the Treasury shall purchase instruments issued under subsection (e) to the extent that the purchase would not increase the aggregate principal amount of the outstanding holdings of obligations under subsection (e) by the Secretary of the Treasury to an amount that is greater than $2,000,000,000.

(h) RATE OF RETURN.—Each purchase of obligations by the Secretary of the Treasury under this section shall be on terms and conditions established to yield a rate of return determined by the Secretary of the Treasury to be appropriate, taking into account the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the purchase.

(i) SALE OF OBLIGATIONS.—The Secretary of the Treasury may at any time sell, on terms and conditions and at prices determined by the Secretary of the Treasury, any of the obligations acquired by the Secretary of the Treasury under this section.

(j) PUBLIC DEBT TRANSACTIONS.—All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this section shall be treated as public debt transactions of the United States.

SEC. 9. GENERAL PROVISIONS.

(a) IMMUNITY FROM IMPAIRMENT, LIMITATION, OR RESTRICTION.—

(1) IN GENERAL.—All rights and remedies of the Administration (including any rights and remedies of the Administration on, under, or with respect to any mortgage or any obligation secured by a mortgage) shall be immune from impairment, limitation, or restriction by or under—

(A) any law (other than a law enacted by Congress expressly in limitation of this paragraph) that becomes effective after the acquisition by the Administration of the subject or property on, under, or with respect to which the right or remedy arises or exists or would so arise or exist in the absence of the law; or

(B) any administrative or other action that becomes effective after the acquisition.

(2) STATE LAW.—The Administrator may conduct the business of the Administration without regard to any qualification or law of any State relating to incorporation.

(b) USE OF OTHER AGENCIES.—With the consent of a department, establishment, or instrumentality (including any field office), the Administration may—

(1) use and act through any department, establishment, or instrumentality;

(2) use, and pay compensation for, information, services, facilities, and personnel of the department, establishment, or instrumentality.

(c) PROCUREMENT.—The Administrator shall be the senior procurement officer for the Administration for purposes of section 16(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(a)).

(d) FINANCIAL MATTERS.—

(1) INVESTMENTS.—Funds of the Administration may be invested in such investments as the Board of Directors may prescribe.

(2) FISCAL AGENTS.—Any Federal Reserve bank or any bank as to which at the time of the designation of the bank by the Administrator there is outstanding a designation by the Secretary of the Treasury as a general or other depository of public money, may be designated by the Administrator as a depositary or custodian or as a fiscal or other agent of the Administration.

(e) JURISDICTION.—Notwithstanding section 1349 of title 28, United States Code, or any other provision of law—

(1) the Administration shall be considered a corporation covered by sections 1345 and 1442 of title 28, United States Code;

(2) all civil actions to which the Administration is a party shall be considered to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value; and

(3) any civil or other action, case or controversy in a court of a State, or in any court other than a district court of the United States, to which the Administration is a party may at any time before trial be removed by the Administration, without the giving of any bond or security and by following any procedure for removal of causes in effect at the time of the removal—

(A) to the district court of the United States for the district and division embracing the place in which the same is pending; or

(B) if there is no such district court, to the district court of the United States for the district in which the principal office of the Administration is located.

(f) PERIODIC REPORTS.—Not later than 1 year after commencement of operation of the Administration and at least biannually thereafter, the Administrator shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that includes a description of—

(1) the technologies supported by activities of the Administration and how the activities advance the purposes of this Act; and

(2) the performance of the Administration on meeting the goals established under section 5.

(g) AUDITS BY THE COMPTROLLER GENERAL.—

(1) IN GENERAL.—The programs, activities, receipts, expenditures, and financial transactions of the Administration shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.

(2) ACCESS.—The representatives of the Government Accountability Office shall—

(A) have access to the personnel and to all books, accounts, documents, records (including electronic records), reports, files, and all other papers, automated data, things, or property belonging to, under the control of, or in use by the Administration, or any agent, representative, attorney, advisor, or consultant retained by the Administration, and necessary to facilitate the audit;

(B) be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians;

(C) be authorized to obtain and duplicate any such books, accounts, documents, records, working papers, automated data and files, or other information relevant to the audit without cost to the Comptroller General; and

(D) have the right of access of the Comptroller General to such information pursuant to section 716(c) of title 31, United States Code.

(3) ASSISTANCE AND COST.—

(A) IN GENERAL.—For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), professional services of firms and organizations of certified public accountants for temporary periods or for special purposes.

(B) REIMBURSEMENT.—

(i) IN GENERAL.—On the request of the Comptroller General, the Administration shall reimburse the General Accountability Office for the full cost of any audit conducted by the Comptroller General under this subsection.

(ii) CREDITING.—Such reimbursements shall—

(I) be credited to the appropriation account entitled ''Salaries and Expenses, Government Accountability Office'' at the time at which the payment is received; and

(II) remain available until expended.

(h) ANNUAL INDEPENDENT AUDITS.—

(1) IN GENERAL.—The Administrator shall—

(A) have an annual independent audit made of the financial statements of the Administration by an independent public accountant in accordance with generally accepted auditing standards; and

(B) submit to the Secretary the results of the audit.

(2) CONTENT.—In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the Administration—

(A) are presented fairly in accordance with generally accepted accounting principles; and

(B) comply with any disclosure requirements imposed under this Act.

(i) FINANCIAL REPORTS.—

(1) IN GENERAL.—The Administrator shall submit to the Secretary annual and quarterly reports of the financial condition and operations of the Administration, which shall be in such form, contain such information, and be submitted on such dates as the Secretary shall require.

(2) CONTENTS OF ANNUAL REPORTS.—Each annual report shall include—

(A) financial statements prepared in accordance with generally accepted accounting principles;

(B) any supplemental information or alternative presentation that the Secretary may require; and

(C) an assessment (as of the end of the most recent fiscal year of the Administration), signed by the chief executive officer

and chief accounting or financial officer of the Administration, of—

(i) the effectiveness of the internal control structure and procedures of the Administration; and

(ii) the compliance of the Administration with applicable safety and soundness laws.

(3) SPECIAL REPORTS.—The Secretary may require the Administrator to submit other reports on the condition (including financial condition), management, activities, or operations of the Administration, as the Secretary considers appropriate.

(4) ACCURACY.—Each report of financial condition shall contain a declaration by the Administrator or any other officer designated by the Board of Directors of the Administration to make the declaration, that the report is true and correct to the best of the knowledge and belief of the officer.

(5) AVAILABILITY OF REPORTS.—Reports required under this section shall be published and made publicly available as soon as is practicable after receipt by the Secretary.

(j) SCOPE AND TERMINATION OF AUTHORITY.—

(1) NEW OBLIGATIONS.—The Administrator shall not initiate any new obligations under this Act on or after January 1, 2029.

(2) REVERSION TO SECRETARY.—The authorities and obligations of the Administration shall revert to the Secretary on January 1, 2029.

By Mr. BROWNBACK (for himself, Mr. INOUYE, Mr. BAUCUS, Mrs. BOXER, Mr. CRAPO, Ms. CANTWELL, Mr. COBURN, Mr. HARKIN, Mr. LIEBERMAN, and Mr. TESTER):

S.J. Res. 14. A joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the Federal Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States; to the Committee on Indian Affairs.

Mr. BROWNBACK. Mr. President, I rise today to introduce a resolution that in many ways is long overdue, a resolution to officially apologize for the past ill-conceived policies by the US Government toward the Native Peoples of this land and re-affirm our commitment toward healing our nation's wounds and working toward establishing better relationships rooted in reconciliation.

Apologies are often-times difficult, but like treaties, go beyond mere words and usher in a true spirit of reconciling past difficulties and help to pave the way toward a united future. Perhaps Dr. King said it best when he stated, ''The end is reconciliation, the end is redemption, the end is the creation of the beloved community.'' This is our goal, with this resolution today.

Native Americans have a vast and proud legacy on this continent. Long before 1776 and the establishment of the United States of America, Native peoples inhabited this land and maintained a powerful physical and spiritual connection to it. In service to the Creator, Native peoples sowed the land, journeyed it, and protected it. The people from my State of Kansas have a similar strong attachment to the land.

Like many in my State, I was raised on the land. I grew up farming and caring for the land. I and many in my State established a connection to this land as well. We care for our Nation and the land of our forefathers so greatly that we too are willing to serve and protect it, as faithful stewards of the creation with which God has blessed us. I believe without a doubt citizens across this great Nation share this sentiment and know its unifying power. Americans have stood side by side for centuries to defend this land we love.

Both the Founding Fathers of the United States, it and the indigenous tribes that lived here were attached to this land. Both sought to steward and protect it. There were several instances of collegiality and cooperation between our forbears—for example, in Jamestown, VA, Plymouth, MA, and in aid to explorers Lewis and Clark. Yet, sadly, since the formation of the American Republic, numerous conflicts have ensued between our Government, the Federal Government, and many of these tribes, conflicts in which warriors on all sides fought courageously and which all sides suffered. Even from the earliest days of our Republic there existed a sentiment that honorable dealings and a peaceful coexistence were clearly preferable to bloodshed. Indeed, our predecessors in Congress in 1787 stated in the Northwest Ordinance:

''The utmost good faith shall always be observed toward the Indians.''

Many treaties were made between the U.S. Government and Native peoples, but treaties are far more than just words on a page. Treaties represent our word, and they represent our bond. Treaties with other governments are not to be regarded lightly. Unfortunately, again, too often the United States did not uphold its responsibilities as stated in its covenants with Native tribes.

I have read all of the treaties in my State between the tribes and the Federal Government that apply to Kansas. They generally came in tranches of three. First, there would be a big land grant to the tribe. Then there would be a much smaller one associated with some equipment and livestock, and then a much smaller one after that.

Too often, our Government broke its solemn oath to Native Americans. For too long, relations between the U.S. and Native people of this land have been in disrepair. For too much of our history, Federal tribal relations have been marked by broken treaties, mistreatment, and dishonorable dealings.

I believe it is time to work to restore these relationships to good health. While the record of the past cannot be and should not be erased, I am confident the United States can acknowledge its past failures, express sincere regrets, and work toward establishing a brighter future for all Americans. It is in this spirit of hope for our land that I and my Senate colleagues, Senators INOUYE, BAUCUS, BOXER, CRAPO, CANTWELL, COBURN, HARKIN, LIEBERMAN, and TESTER, are offering this Senate Joint Resolution, the Native American Apology Resolution. I am also pleased to be in partnership with Representative DAN BOREN who is offering the companion Joint Resolution in the House of Representatives today as well.

This resolution will extend a formal apology from the U.S. to tribal governments and Native peoples nationwide—something we have never done; something we should have done years and years ago.

I am proud that this Joint Resolution, which I have introduced since the 107th Congress, has passed the Indian Affairs Committee unanimously in the 108th, 109th and 110th Congresses and passed the Senate in the 110th Congress.

Additionally, I want my fellow Senators to note this resolution does not—does not—dismiss the valiance of our American soldiers who fought bravely for their families in wars between the United States and a number of the Indian tribes, nor does this resolution cast all the blame for the various battles on one side or another.

Further, this resolution will not resolve the many challenges still facing Native Americans, nor will it authorize, support or settle any claims against the United States. It doesn't have anything to do with any property claims against the United States. That is specifically set aside and not in this bill. What this resolution does do is recognize and honor the importance of Native Americans to this land and to the U.S. in the past and today and offers an official apology for the poor and painful path the U.S. Government sometimes made in relation to our Native brothers and sisters by disregarding our solemn word to Native peoples. It recognizes the negative impact of numerous destructive Federal acts and policies on Native Americans and their culture, and it begins—begins—the effort of reconciliation.

President Ronald Reagan spoke of the importance of reconciliation many times throughout his Presidency. In a 1984 speech to mark the 40th anniversary of the day when the Allied armies joined in battle to free the European Continent from the grip of the Axis powers, Reagan implored the United States and Europe to ''prepare to reach out in the spirit of reconciliation.''

This resolution is not a panacea of course, but perhaps it signals the beginning of the end of division and a faint first light and first fruits of reconciliation and the creation of beloved community Dr. King so eloquently described.

This is a resolution of apology and a resolution of reconciliation. It is a step toward healing the wounds that have divided our country for so long—a potential foundation for a new era of positive relations between tribal governments and the Federal Government.

It is time, as I have stated, for us to heal our land of division, all divisions, and bring us together. I hope a number

of my colleagues in the Senate will join me and support this resolution and begin a much needed healing process in this Nation.

Mr. President, I ask that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 14

Whereas the ancestors of today's Native Peoples inhabited the land of the present-day United States since time immemorial and for thousands of years before the arrival of people of European descent;

Whereas for millennia, Native Peoples have honored, protected, and stewarded this land we cherish;

Whereas Native Peoples are spiritual people with a deep and abiding belief in the Creator, and for millennia Native Peoples have maintained a powerful spiritual connection to this land, as evidenced by their customs and legends;

Whereas the arrival of Europeans in North America opened a new chapter in the history of Native Peoples;

Whereas while establishment of permanent European settlements in North America did stir conflict with nearby Indian tribes, peaceful and mutually beneficial interactions also took place;

Whereas the foundational English settlements in Jamestown, Virginia, and Plymouth, Massachusetts, owed their survival in large measure to the compassion and aid of Native Peoples in the vicinities of the settlements;

Whereas in the infancy of the United States, the founders of the Republic expressed their desire for a just relationship with the Indian tribes, as evidenced by the Northwest Ordinance enacted by Congress in 1787, which begins with the phrase, ''The utmost good faith shall always be observed toward the Indians'';

Whereas Indian tribes provided great assistance to the fledgling Republic as it strengthened and grew, including invaluable help to Meriwether Lewis and William Clark on their epic journey from St. Louis, Missouri, to the Pacific Coast;

Whereas Native Peoples and non-Native settlers engaged in numerous armed conflicts in which unfortunately, both took innocent lives, including those of women and children;

Whereas the Federal Government violated many of the treaties ratified by Congress and other diplomatic agreements with Indian tribes;

Whereas the United States forced Indian tribes and their citizens to move away from their traditional homelands and onto federally established and controlled reservations, in accordance with such Acts as the Act of May 28, 1830 (4 Stat. 411, chapter 148) (commonly known as the ''Indian Removal Act'');

Whereas many Native Peoples suffered and perished—

(1) during the execution of the official Federal Government policy of forced removal, including the infamous Trail of Tears and Long Walk;

(2) during bloody armed confrontations and massacres, such as the Sand Creek Massacre in 1864 and the Wounded Knee Massacre in 1890; and

(3) on numerous Indian reservations;

Whereas the Federal Government condemned the traditions, beliefs, and customs of Native Peoples and endeavored to assimilate them by such policies as the redistribution of land under the Act of February 8, 1887 (25 U.S.C. 331; 24 Stat. 388, chapter 119) (commonly known as the ''General Allotment Act''), and the forcible removal of Native children from their families to faraway boarding schools where their Native practices and languages were degraded and forbidden;

Whereas officials of the Federal Government and private United States citizens harmed Native Peoples by the unlawful acquisition of recognized tribal land and the theft of tribal resources and assets from recognized tribal land;

Whereas the policies of the Federal Government toward Indian tribes and the breaking of covenants with Indian tribes have contributed to the severe social ills and economic troubles in many Native communities today;

Whereas despite the wrongs committed against Native Peoples by the United States, Native Peoples have remained committed to the protection of this great land, as evidenced by the fact that, on a per capita basis, more Native Peoples have served in the United States Armed Forces and placed themselves in harm's way in defense of the United States in every major military conflict than any other ethnic group;

Whereas Indian tribes have actively influenced the public life of the United States by continued cooperation with Congress and the Department of the Interior, through the involvement of Native individuals in official Federal Government positions, and by leadership of their own sovereign Indian tribes;

Whereas Indian tribes are resilient and determined to preserve, develop, and transmit to future generations their unique cultural identities;

Whereas the National Museum of the American Indian was established within the Smithsonian Institution as a living memorial to Native Peoples and their traditions; and

Whereas Native Peoples are endowed by their Creator with certain unalienable rights, and among those are life, liberty, and the pursuit of happiness.

Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESOLUTION OF APOLOGY TO NATIVE PEOPLES OF UNITED STATES.

(a) ACKNOWLEDGMENT AND APOLOGY.—The United States, acting through Congress—

(1) recognizes the special legal and political relationship Indian tribes have with the United States and the solemn covenant with the land we share;

(2) commends and honors Native Peoples for the thousands of years that they have stewarded and protected this land;

(3) recognizes that there have been years of official depredations, ill-conceived policies, and the breaking of covenants by the Federal Government regarding Indian tribes;

(4) apologizes on behalf of the people of the United States to all Native Peoples for the many instances of violence, maltreatment, and neglect inflicted on Native Peoples by citizens of the United States;

(5) expresses its regret for the ramifications of former wrongs and its commitment to build on the positive relationships of the past and present to move toward a brighter future where all the people of this land live reconciled as brothers and sisters, and harmoniously steward and protect this land together;

(6) urges the President to acknowledge the wrongs of the United States against Indian tribes in the history of the United States in order to bring healing to this land; and

(7) commends the State governments that have begun reconciliation efforts with recognized Indian tribes located in their boundaries and encourages all State governments similarly to work toward reconciling relationships with Indian tribes within their boundaries.

(b) DISCLAIMER.—Nothing in this Joint Resolution—

(1) authorizes or supports any claim against the United States; or

(2) serves as a settlement of any claim against the United States.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 121—DESIGNATING MAY 15, 2009, AS ''ENDANGERED SPECIES DAY''

Mrs. FEINSTEIN (for herself, Ms. COLLINS, Mr. AKAKA, Mrs. BOXER, Mr. BROWN, Ms. CANTWELL, Mr. FEINGOLD, Mr. KERRY, Mr. LEVIN, Mr. SANDERS, and Mr. WHITEHOUSE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 121

Whereas, in the United States and around the world, more than 1,000 species are officially designated as at risk of extinction and thousands more also face a heightened risk of extinction;

Whereas the actual and potential benefits that may be derived from many species have not yet been fully discovered and would be permanently lost if not for conservation efforts;

Whereas recovery efforts for species such as the whooping crane, Kirtland's warbler, the peregrine falcon, the gray wolf, the gray whale, the grizzly bear, and others have resulted in great improvements in the viability of such species;

Whereas saving a species requires a combination of sound research, careful coordination, and intensive management of conservation efforts, along with increased public awareness and education;

Whereas ⅔ of endangered or threatened species reside on private lands;

Whereas voluntary cooperative conservation programs have proven to be critical to habitat restoration and species recovery; and

Whereas education and increasing public awareness are the first steps in effectively informing the public about endangered species and species restoration efforts: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 15, 2009, as ''Endangered Species Day'';

(2) encourages schools to spend at least 30 minutes on Endangered Species Day teaching and informing students about—

(A) threats to endangered species around the world; and

(B) efforts to restore endangered species, including the essential role of private landowners and private stewardship in the protection and recovery of species;

(3) encourages organizations, businesses, private landowners, and agencies with a shared interest in conserving endangered species to collaborate in developing educational information for use in schools; and

(4) encourages the people of the United States—

(A) to become educated about, and aware of, threats to species, success stories in species recovery, and opportunities to promote species conservation worldwide; and

(B) to observe the day with appropriate ceremonies and activities.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce a resolution to establish the fourth annual Endangered

Species Day on May 15, 2009. I am introducing this legislation with Senators COLLINS, BOXER, BROWN, CANTWELL, FEINGOLD, KERRY, LEVIN, SANDERS, WHITEHOUSE, and AKAKA whose cosponsorship and support of this resolution I appreciate very much.

The designation of Endangered Species Day will provide many wonderful opportunities for Americans to familiarize themselves with the status and recovery efforts of endangered species in our own country and around the world, including such magnificent species as the polar bear.

Last year, more than 100 events were held across the country to highlight endangered species success stories, and even more are slated for this year. Educational activities were held at zoos, aquariums, libraries, and schools across the country, including Disney's Animal Kingdom in Florida, the San Diego Zoo in California, the Port Defiance Zoo and Aquarium in Tacoma, Washington, and the Bronx Zoo in New York City.

Based on the success of last year, I am confident that this year's Endangered Species Day will continue to foster increased awareness about endangered species by encouraging educational activities such as school field trips to the zoo or attending an art fair at a local library.

Endangered species recovery programs in California are great examples of the conservation and management efforts that have helped to significantly restore populations of the California condor and the California gray whale. Over 300 species classified as either endangered or threatened live in California, and efforts to protect them will ensure that they continue to do so.

Despite these success stories, we must consider what more can be done. There are over 5,000 threatened species that receive protection in the United States and abroad. An important step to preventing further threats to and endangerment of wildlife is to increase awareness about the seriousness of the problem and educating our youth on what we can do.

I would also like to commend the Interior Secretary Ken Salazar and Commerce Secretary Gary Locke, who recently lifted the Bush administration's last-minute consultation rule. This will allow the United States to take immediate action to ensure that independent wildlife experts are consulted on the impacts on endangered and threatened species.

I am introducing this bill with the hope that Endangered Species Day can spark the interest in our youth to continue the conservation efforts that we have begun, but are still far from finishing.

SENATE RESOLUTION 122—DESIGNATING APRIL 30, 2009, AS ''DÍA DE LOS NIÑOS: CELEBRATING YOUNG AMERICANS'', AND FOR OTHER PURPOSES

Mr. MENENDEZ (for himself, Mr. HATCH, Mr. BINGAMAN, Mr. KENNEDY, Mr. DURBIN, Mrs. BOXER, Mr. SCHUMER, Mr. UDALL of New Mexico, Mr. LAUTENBERG, Mr. FEINGOLD, Mrs. GILLIBRAND, Mr. CORNYN, Mr. CRAPO, Mr. MARTINEZ, Mr. COCHRAN, Mr. NELSON of Florida, and Ms. STABENOW) submitted the following resolution; which was considered and agreed to:

S. RES. 122

Whereas many nations throughout the world, and especially within the Western hemisphere, celebrate ''Día de los Niños'', or ''Day of the Children'', on the 30th of April, in recognition and celebration of their country's future—their children;

Whereas children represent the hopes and dreams of the people of the United States and are the center of American families;

Whereas children should be nurtured and invested in to preserve and enhance economic prosperity, democracy, and the American spirit;

Whereas according to the latest Census report, there are more than 44,000,000 individuals of Hispanic descent living in the United States, nearly 15,000,000 of whom are children;

Whereas Hispanics in the United States, the youngest and fastest growing ethnic community in the Nation, continue the tradition of honoring their children on Día de los Niños, and wish to share this custom with the rest of the Nation;

Whereas the primary teachers of family values, morality, and culture are parents and family members, and we rely on children to pass on these family values, morals, and culture to future generations;

Whereas the importance of literacy and education are most often communicated to children through family members;

Whereas families should be encouraged to engage in family and community activities that include extended and elderly family members and that encourage children to explore and develop confidence;

Whereas the designation of a day to honor the children of the United States will help affirm for the people of the United States the significance of family, education, and community;

Whereas the designation of a day of special recognition for the children of the United States will provide an opportunity for children to reflect on their future, to articulate their aspirations, and to find comfort and security in the support of their family members and communities;

Whereas the National Latino Children's Institute, serving as a voice for children, has worked with cities throughout the Nation to declare April 30 as ''Día de los Niños: Celebrating Young Americans'', a day to bring together Hispanics and other communities nationwide to celebrate and uplift children; and

Whereas the children of a nation are the responsibility of all its people, and people should be encouraged to celebrate the gifts of children to society: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 30, 2009, as ''Día de los Niños: Celebrating Young Americans''; and

(2) calls on the people of the United States to join with all children, families, organizations, communities, churches, cities, and States across the Nation to observe the day with appropriate ceremonies, including activities that—

(A) center around children, and are free or minimal in cost so as to encourage and facilitate the participation of all our people;

(B) are positive and uplifting and that help children express their hopes and dreams;

(C) provide opportunities for children of all backgrounds to learn about one another's cultures and to share ideas;

(D) include all members of the family, especially extended and elderly family members, so as to promote greater communication among the generations within a family, enabling children to appreciate and benefit from the experiences and wisdom of their elderly family members;

(E) provide opportunities for families within a community to get acquainted; and

(F) provide children with the support they need to develop skills and confidence, and to find the inner strength and the will and fire of the human spirit to make their dreams come true.

SENATE RESOLUTION 123—EXPRESSING SUPPORT FOR DESIGNATION OF MAY 2, 2009, AS ''VIETNAMESE REFUGEES DAY''

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

S. RES. 123

Whereas the Library of Congress' Asian Division together with many Vietnamese-American organizations across the United States will sponsor a ''Journey to Freedom: A Boat People Retrospective'' symposium on May 2, 2009;

Whereas Vietnamese refugees were asylum-seekers from Communist-controlled Vietnam;

Whereas many Vietnamese escaped in boats during the late 1970s, after the Vietnam War and by land across the Cambodian, Laotian, and Thai borders into refugee camps in Thailand;

Whereas over 2,000,000 Vietnamese boat people and other refugees are now spread across the world, in the United States, Australia, Canada, France, England, Germany, China, Japan, Hong Kong, South Korea, the Philippines, and other nations;

Whereas over half of all overseas Vietnamese are Vietnamese-Americans, and Vietnamese-Americans are the fourth-largest Asian American group in the United States;

Whereas, as of 2006, 72 percent of Vietnamese-Americans were naturalized United States citizens, the highest rate among all Asian groups;

Whereas Vietnamese-Americans have made significant contributions to the rich culture and economic prosperity of the United States;

Whereas Vietnamese-Americans have distinguished themselves in the fields of literature, the arts, science, and athletics, and include actors and actresses, physicists, an astronaut, and Olympic athletes; and

Whereas May 2, 2009, would be an appropriate day to designate as ''Vietnamese Refugees Day'': Now, therefore, be it

Resolved, That the Senate supports the designation of ''Vietnamese Refugees Day'' in order to commemorate the arrival of Vietnamese refugees in the United States, to document their harrowing experiences, and subsequent achievements in their new homeland, to honor the host countries that welcomed the boat people, and to recognize the voluntary agencies and nongovernmental organizations that facilitated their resettlement, adjustment, and assimilation into mainstream society in the United States.

SENATE RESOLUTION 124—RECOGNIZING THE THREATS TO PRESS FREEDOM AND EXPRESSION AROUND THE WORLD AND REAFFIRMING PRESS FREEDOM AS A PRIORITY IN THE EFFORTS OF THE UNITED STATES TO PROMOTE DEMOCRACY AND GOOD GOVERNANCE, ON THE OCCASION OF WORLD PRESS FREEDOM DAY ON MAY 3, 2009

Mr. FEINGOLD (for himself, Mr. KAUFMAN, Mr. LUGAR, Mr. LEAHY, Mr. DURBIN, Mr. KERRY, Mr. CASEY, Mr. LIEBERMAN, Mr. ISAKSON, Mr. CARDIN, and Mr. MENENDEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 124

Whereas, in 1993, the United Nations General Assembly proclaimed May 3 of each year as ''World Press Freedom Day'' to celebrate the fundamental principles of press freedom, to evaluate the state of press freedom around the world, to defend the media from attacks on the independence of the media, and to pay tribute to journalists who have lost their lives in the line of duty;

Whereas, according to the International Federation of Journalists, at least 109 journalists and other media workers were killed in 2008 while on assignment;

Whereas, according to the Committee to Protect Journalists, nearly 3 out of 4 journalists killed in the line of duty are murdered, and the killers go unpunished in nearly 9 of 10 cases;

Whereas, according to estimates by Reporters Without Borders, in 2008, 673 journalists were arrested, 929 journalists were physically attacked or threatened, and 29 journalists were kidnapped;

Whereas Freedom House reported that press freedom has been declining during recent years in both authoritarian countries and established democracies;

Whereas, reflecting the rise in influence of Internet reporting, an increasing number of online editors, bloggers, and web-based reporters are being imprisoned and their websites closed; and

Whereas press freedom is a key component of democratic governance and socio-economic development and enhances public accountability, transparency and participation: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the threats to press freedom and expression around the world, on the occasion of World Press Freedom Day on May 3, 2009;

(2) commends journalists around the world for the essential role they play in promoting government accountability and strengthening civil society, despite numerous threats;

(3) pays tribute to the journalists who have lost their lives in the line of duty;

(4) condemns all actions around the world that suppress press freedom;

(5) reaffirms the centrality of press freedom to efforts by the United States to support democracy, mitigate conflict, and promote good governance around the world; and

(6) calls on the President and the Secretary of State to develop means by which the United States Government can more rapidly identify, publicize, and respond to threats against press freedom around the world.

SENATE CONCURRENT RESOLUTION 22—SUPPORTING THE GOALS AND IDEALS OF NATIONAL SEXUAL ASSAULT AWARENESS AND PREVENTION MONTH 2009

Mr. CASEY (for himself and Mr. BROWNBACK) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 22

Whereas on average, a person is sexually assaulted in the United States every 2½ minutes;

Whereas the Department of Justice reports that 191,670 people in the United States were sexually assaulted in 2005;

Whereas 1 in 6 women and 1 in 33 men have been victims of rape or attempted rape;

Whereas the Department of Defense received 2,688 reports of sexual assault involving members of the Armed Forces in fiscal year 2007;

Whereas children and young adults are most at risk for sexual assault, as 44 percent of sexual assault victims are under the age of 18, and 80 percent are under the age of 30;

Whereas sexual assault affects women, men, and children of all racial, social, religious, age, ethnic, and economic groups in the United States;

Whereas only 41 percent of sexual assault victims pursue prosecution by reporting their attacks to law enforcement agencies;

Whereas ⅔ of sexual crimes are committed by persons who are not strangers to the victims;

Whereas sexual assault survivors suffer emotional scars long after the physical scars have healed;

Whereas prevention education programs carried out by rape crisis and women's health centers have the potential to reduce the prevalence of sexual assault in their communities;

Whereas because of recent advances in DNA technology, law enforcement agencies now have the potential to identify the rapists in tens of thousands of unsolved rape cases;

Whereas aggressive prosecution can incarcerate rapists and therefore prevent them from committing further crimes;

Whereas free, confidential help is available to all survivors of sexual assault through the National Sexual Assault Hotline, more than 1,000 rape crisis centers across the United States, and other organizations that provide services to assist survivors of sexual assault; and

Whereas April 2009 is recognized as ''National Sexual Assault Awareness and Prevention Month'': Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) it is the sense of Congress that—

(A) National Sexual Assault Awareness and Prevention Month provides a special opportunity to educate the people of the United States about sexual violence and to encourage the prevention of sexual assault, the improved treatment of its survivors, and the prosecution of its perpetrators;

(B) it is appropriate to properly acknowledge the more than 20,000,000 men and women who have survived sexual assault in the United States and salute the efforts of survivors, volunteers, and professionals who combat sexual assault;

(C) national and community organizations and private sector supporters should be recognized and applauded for their work in promoting awareness about sexual assault, providing information and treatment to its survivors, and increasing the number of successful prosecutions of its perpetrators; and

(D) public safety, law enforcement, and health professionals should be recognized and applauded for their hard work and innovative strategies to increase the percentage of sexual assault cases that result in the prosecution and incarceration of the offenders;

(2) Congress strongly recommends that national and community organizations, businesses in the private sector, colleges and universities, and the media promote, through National Sexual Assault Awareness and Prevention Month, awareness of sexual violence and strategies to decrease the incidence of sexual assault; and

(3) Congress supports the goals and ideals of National Sexual Assault Awareness and Prevention Month 2009.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1014. Mr. DURBIN (for himself, Mr. DODD, Mr. REID, Mr. SCHUMER, Mr. WHITEHOUSE, and Mr. HARKIN) proposed an amendment to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability.

SA 1015. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 896, supra; which was ordered to lie on the table.

SA 1016. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, supra.

SA 1017. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, supra.

SA 1018. Mr. DODD (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill S. 896, supra.

SA 1019. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, supra.

SA 1020. Mr. GRASSLEY (for himself, Mr. BAUCUS, and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 896, supra; which was ordered to lie on the table.

SA 1021. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 896, supra; which was ordered to lie on the table.

SA 1022. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 896, supra; which was ordered to lie on the table.

SA 1023. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, supra; which was ordered to lie on the table.

SA 1024. Mr. KERRY (for himself, Mrs. BOXER, Mrs. GILLIBRAND, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, supra; which was ordered to lie on the table.

SA 1025. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 896, supra; which was ordered to lie on the table.

SA 1026. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 896, supra; which was ordered to lie on the table.

SA 1027. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 896, supra; which was ordered to lie on the table.

SA 1028. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 896, supra; which was ordered to lie on the table.

SA 1029. Mr. SCHUMER submitted an amendment intended to be proposed by him to the resolution S. Res. 93, a bill supporting the mission and goals of 2009 National Crime Victim's Rights Week, to increase public awareness of the rights, needs, and concerns of victims and survivors of crime in the United States, and to commemorate the 25th anniversary of the enactment of the Victims of Crime Act of 1984.

TEXT OF AMENDMENTS

SA 1014. Mr. DURBIN (for himself, Mr. DODD, Mr. REID, Mr. SCHUMER, Mr. WHITEHOUSE, and Mr. HARKIN) proposed an amendment to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; as follows:

At the end of the bill, add the following:

TITLE V—PREVENTION OF MORTGAGE FORECLOSURES

Subtitle A—Modification of Residential Mortgages

SEC. 501. DEFINITIONS.

Section 101 of title 11, United States Code, is amended by inserting after paragraph (43) the following:

''(43A)(A) The term 'qualified loan modification offer' means a loan modification agreement that is consistent with the terms described in subparagraph (B) and that is offered—

''(i) in accordance with the guidelines of the Homeowner Affordability and Stability Plan, to a debtor who qualifies for such plan;

''(ii) in accordance with the qualified loan guidelines described in subparagraph (C)(i) for loans insured or guaranteed by the Federal Housing Administration of the Department of Housing and Urban Development, the Department of Veterans Affairs, or the Department of Agriculture, to a debtor for whom a loan is insured or guaranteed under programs of such Government entities; or

''(iii) in accordance with qualified loan guidelines described in subparagraph (C)(ii) to a debtor who does not qualify for the Homeowner Affordability and Stability Plan, for a loan for which the servicer is not a participant in such plan, and for whom a loan is not insured or guaranteed under programs of the Government entities described in subparagraph (A)(ii).

''(B) For purposes of this paragraph, a 'qualified loan modification offer'—

''(i) requires no fees or charges to be paid by the debtor in order to obtain such modification;

''(ii) permits the debtor to continue to make payments under the modification agreement, notwithstanding the filing of a case under this title, as if such case had not been filed;

''(iii) is offered in good faith to the debtor in writing, not later than 45 days after the date on which the debtor provided to the servicer of such loan, in good faith, all required information, as defined in subparagraph (G), in order to be considered for a qualified loan modification offer or a qualified loan refinancing offer;

''(iv) is presented to the debtor as a firm written offer in a form that can be accepted by the debtor by signing the offer and returning it to the servicer of such loan;

''(v) is offered with respect to a loan for which no foreclosure sale is scheduled, or shall be scheduled, during the time the request for modification is being considered or is scheduled during the 30-day period beginning on the expiration of the time period specified in clause (iii); and

''(vi) is not revoked by the servicer of such loan for reasons within the control of the debtor before the confirmation of the plan filed under section 1321 or the modification of a plan under section 1323 or 1329.

''(C) For purposes of this paragraph, the term 'qualified loan guidelines' describes a loan modification agreement that—

''(i) in the case of a loan that is insured or guaranteed by the Federal Housing Administration, the Department of Veterans Affairs, or the Department of Agriculture and that is secured by the senior security interest in the principal residence of the debtor, modifies the debtor's monthly housing payment for at least a period of 5 years—

''(I) to 31 percent or less of the debtor's monthly gross income at the time of the modification, without any period of negative amortization; or

''(II) before expiration of the 90-day period beginning on the effective date of this paragraph, to the lowest percentage of the debtor's monthly gross income allowed under the applicable program guidelines in effect before the effective date of this paragraph, without any period of negative amortization, if such lowest percentage is greater than 31 percent of the debtor's monthly gross income at the time of the modification, without any period of negative amortization;

''(ii) in the case of a loan for a debtor who does not qualify for the Homeowner Affordability and Stability Plan, or of a loan for which the servicer is not a participant in such plan and for whom a loan is not insured or guaranteed under programs of the Government entities described in subparagraph (A)(ii)—

''(I) modifies the debtor's monthly housing payment for at least a period of 5 years to 31 percent or less of the debtor's monthly gross income at the time of the modification, without any period of negative amortization; and

''(II) provides that, after the initial period of 5 years, the interest rate on the modified loan may increase by not more than 1 percentage point per year until the interest rate reaches (but does not exceed) the prevailing market interest rate on the date on which the modification is finalized, as published by the Federal Home Loan Mortgage Corporation, at which time such maximum interest rate shall be fixed for the remaining loan term.

''(D) For purposes of this paragraph—

''(i) the term 'debtor's monthly gross income' means the total income amount before any payroll deductions, and includes wages and salaries, overtime pay, commissions, fees, tips, bonuses, housing allowances, other compensation for personal services, Social Security payments, including Social Security received by adults on behalf of minors or by minors intended for their own support, and monthly income from annuities, insurance policies, retirement funds, pensions, disability or death benefits, unemployment benefits, rental income, and other income. For income from the operation of a business, profession, or farm, monthly gross income shall be the sum of the debtor's gross receipts exclusive of ordinary and necessary business expenses; and

''(ii) the term 'debtor's monthly housing payment' includes fixed principal and interest, and payments for real estate taxes, hazard insurance, mortgage insurance premium, homeowners' association dues, ground rent, special assessments, and all other amounts collected by the servicer as part of that payment.

''(E) The term 'Homeowner Affordability and Stability Plan' means the loan modification plan announced and implemented by the Secretary of the Treasury on March 4, 2009, and any successor thereto.

''(F) For purposes of this paragraph, the term 'servicer' means the person responsible for any of master servicing, servicing, or subservicing of a debt secured by the debtor's principal residence (including the person who makes or holds a loan if such person also master services, services, or subservices the loan).

''(G) For purposes of this paragraph, the term 'required information' means all information required to be provided to the servicer under the Homeowner Affordability and Stability Plan, or according to a similar standardized list, as issued by the Secretary of the Treasury or the Secretary of the Department of Housing and Urban Development, to allow the servicer to determine the debtor's eligibility for a qualified loan modification offer or a qualified loan refinancing offer made by the holder of the loan. If the servicer fails to notify the debtor within 30 days of the date of submission of information by the debtor that the information is incomplete and specify what further information must be submitted, it shall be conclusively presumed that the information submitted by the debtor satisfies such requirement. For purposes of this subparagraph, required information provided to the servicer by the debtor shall be deemed accurate and complete as of the time it was delivered to the servicer. Material differences not based on a change in the debtor's circumstances between the required information provided under the Homeowner Affordability and Stability Plan or a similar standardized list, as issued by the Secretary of the Treasury or the Secretary of the Department of Housing and Urban Development, and information provided by the debtor in the schedules required under section 521(a), shall give rise to a rebuttable presumption that the debtor is not eligible for a modification under section 1322(b)(11), if such material differences in the required information render the debtor ineligible for a qualified loan modification offer or a qualified loan refinancing offer. The debtor may rebut the presumption by showing that the debtor offered the required information in good faith.

''(43B) The term 'qualified loan refinancing offer' means a loan offered in accordance with the HOPE for Homeowners program, as authorized by section 257 of the National Housing Act (12 U.S.C. 1715z–23) that—

''(A) refinances a loan secured by the senior security interest in the principal residence of the debtor, and which is eligible to be refinanced under the HOPE for Homeowners program;

''(B) permits the debtor to continue to make payments under the loan, notwithstanding the filing of a case under this title, as if such case had not been filed; and

''(C) with respect to which the debtor has received a written notice that the debtor's application for such loan was approved by a person or entity authorized by the Secretary of the Department of Housing and Urban Development to serve as a mortgagee, and such loan approval was not revoked by such person or entity before the date of the confirmation of the plan filed under section 1321 or the modification of a plan under section 1323 or 1329.''.

SEC. 502. ELIGIBILITY FOR RELIEF.

Section 109 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting ''(1)'' after ''(e)''; and

(B) by adding at the end the following:

''(2) For purposes of this subsection, the computation of debts shall not include the secured or unsecured portions of—

''(A) debts secured by the debtor's principal residence, if the value of such residence as of the date of the order for relief under chapter 13 is less than the applicable maximum amount of noncontingent, liquidated, secured debts specified in this subsection; or

''(B) debts secured or formerly secured by what was the debtor's principal residence that was sold in foreclosure or that the debtor surrendered to the creditor, if the value of such real property as of the date of the order for relief under chapter 13 was less than the applicable maximum amount of noncontingent, liquidated, secured debts specified in this subsection.'';

(2) in subsection (h)(1), by striking ''and (3)'' and inserting '', (3), and (5)''; and

(3) in subsection (h), by adding at the end the following:

''(5) With respect to a debtor in a case under chapter 13 who is at least 60 days delinquent with respect to the claim secured by the debtor's principal residence and submits to the court a certification that the debtor has received written notice that the holder of a claim secured by the debtor's principal residence may commence a foreclosure on the debtor's principal residence, the requirements of paragraph (1) shall be considered to be satisfied if the debtor satisfies such requirements not later than the expiration of the 45-day period beginning on the date of the filing of the petition.''.

SEC. 503. AUTHORITY TO MODIFY CERTAIN MORTGAGES.

Section 1322 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) by redesignating paragraph (11) as paragraph (12);

(B) in paragraph (10), by striking ''and'' at the end; and

(C) by inserting after paragraph (10) the following:

''(11) notwithstanding paragraph (2), modify the rights of the holder of a claim for a loan originated before January 1, 2009, with an unpaid principal balance that is not greater than the maximum loan amount provided for in the guidelines of the Homeowner Affordability and Stability Plan, that is at least 60 days delinquent and secured by a security interest in the debtor's principal residence and, in the case of a claim secured by the senior security interest in such residence that is the subject of a written notice that a foreclosure may be commenced with respect to such loan—

''(A) by providing for payment of the amount of the allowed secured claim, as determined under section 506(a)(1);

''(B) by modifying the terms and conditions of such loan—

''(i) to extend the repayment period for a period that is not longer than the longer of 40 years (reduced by the period for which such loan has been outstanding) or the remaining term of such loan, beginning on the date of the order for relief under this chapter; and

''(ii) to provide for the payment of interest accruing after the date of the order for relief under this chapter at a fixed annual rate equal to the currently applicable average prime offer rate, as of the date of the order for relief under this chapter, corresponding to the repayment term determined under the preceding paragraph, as published by the Federal Financial Institutions Examination Council in its table entitled 'Average Prime Offer Rates—Fixed' (or any successor thereto), rounded to the nearest 0.125 percent, plus a reasonable premium for risk; and

''(C) by providing for payments of such modified loan directly to the holder of the claim or, at the discretion of the court, through the trustee during the term of the plan; and''; and

(2) by adding at the end the following:

''(g) A claim may be reduced under subsection (b)(11)(A) only on the condition that if the debtor sells the principal residence securing such claim during the pendency of the case under this chapter and receives net proceeds from the sale of such residence—

''(1) the debtor agrees to pay to such holder 50 percent of the amount of the difference between the sale price and the amount of such claim, as originally determined under subsection (b)(11) (plus costs of sale and improvements), but not to exceed the unpaid amount of the allowed secured claim determined as if such claim had not been reduced under such subsection;

''(2) the debtor notifies the holder of such claim (or entity collecting payments on behalf of such holder), not later than 30 days before the closing date of such sale, of the details of sale, including the buyer's name and address, the buyer's relationship to the debtor, if any, purchase price, anticipated sale closing date, name and address of the closing agent, and any other relevant information; and

''(3) any amount to be received by the holder is listed in the closing documents.

''(h) With respect to a claim of the kind described in subsection (b)(11) that is secured by the senior security interest in the debtor's principal residence, the plan may not contain a modification under the authority of subsection (b)(11)—

''(1) in a case commenced under this chapter after the expiration of the 45-day period beginning on the effective date of this subsection, unless the debtor certifies that the debtor sought a qualified loan modification offer or a qualified loan refinancing offer, as those terms are defined in paragraphs (43A) and (43B) of section 101, respectively, and submitted the required information, as that term is defined in section 101(43A)(G);

''(2) in any other case under this chapter, unless the debtor certifies that the debtor sought a qualified loan modification offer or qualified loan refinancing offer, as those terms are so defined, at least 45 days before—

''(A) the date of confirmation of a plan under section 1321 that contains a modification under the authority of subsection (b)(11) of this section; or

''(B) the date of modification of a plan under section 1323 or 1329 to contain a modification under the authority of subsection (b)(11) of this section;

''(3) except as provided in subsection (i)(2), if the debtor's monthly housing payment prior to loan modification or refinance is less than 31 percent of the debtor's gross monthly income (as those terms are defined in section 101(43A)(D)); or

''(4) except as provided in subsection (i)(2), if the debtor has received a qualified loan modification offer or a qualified loan refinancing offer, as those terms are so defined.

''(i)(1) If the debtor's income at the time at which a petition is filed under this chapter is equal to or greater than 80 percent of the area median income, as published by the Department of Housing and Urban Development, with respect to a claim of the kind described in subsection (b)(11), and if the debtor has received a qualified loan modification offer or a qualified loan refinancing offer (as those terms are defined in paragraphs (43A) and (43B) of section 101, respectively for purposes of this subsection), such debtor may not modify the rights of the holder of a claim that is secured by the senior security interest in the debtor's principal residence pursuant to subsection (b)(11), regardless of whether the debtor has accepted the offer.

''(2) If the debtor's income at the time at which a petition is filed under this chapter is not equal to or greater than 80 percent of the area median income, as published by the Department of Housing and Urban Development, the debtor shall be subject to all requirements applicable to other debtors under this section with respect to a claim of the kind described in subsection (b)(11), provided that—

''(A) if the debtor is subject to subsection (h)(3) or (h)(4), such debtor may still modify the rights of the holder of a claim secured by the senior security interest in the debtor's principal residence pursuant to subsection (b)(11), other than by reduction in the principal balance, if the payments that would be due under a modification implemented by a plan under this chapter permitting payments over a term of 40 years and an interest rate equal to the currently applicable prime offer rate described in subsection (b)(11)(B)(ii) would be less than the payments due under the qualified loan modification offer or a qualified loan refinancing offer; and

''(B) if the debtor has received an otherwise qualified loan modification offer or a qualified loan refinancing offer that reduces the debtor's monthly housing payment to 25 percent or less of the debtor's monthly gross income (as those terms are defined in section 101(43A)(D)), such debtor may not modify the rights of the holder of a claim secured by the senior security interest in the debtor's principal residence pursuant to subsection (b)(11), regardless of whether or not the debtor has accepted the offer.

''(j) In determining the holder's allowed secured claim under section 506(a)(1) for purposes of subsection (b)(11)(A) of this section, the value of the debtor's principal residence shall be the fair market value of such residence on the date of the determination of the value of the allowed secured claim and, if the issue of value is contested, the court shall determine such value in accordance with the appraisal rules used by the Federal Housing Administration.

''(k) If the rights of a holder of a claim of the kind described in subsection (b)(11) have been modified pursuant to subsection (b)(11), the court may not approve, and the debtor may not borrow, any additional funds during the pendency of the case that are secured by a security interest in the debtor's principal residence that is junior to the lien securing such claim.''.

SEC. 504. COMBATING EXCESSIVE FEES.

Section 1322(c) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(3) the debtor, the debtor's property, and property of the estate are not liable for a fee, cost, or charge that is incurred while the case under this chapter is pending and arises from a debt that is secured by the debtor's principal residence, except to the extent that—

''(A) the holder of the claim for the debt files with the court and serves on the trustee, the debtor, and the debtor's attorney (annually or, in order to permit filing consistent with clause (ii), more frequently, as the court determines necessary) notice of the fee, cost, or charge before the earlier of—

''(i) 1 year after the date on which the fee, cost, or charge is incurred; or

''(ii) 60 days before the closing of the case under this chapter; and

''(B) the fee, cost, or charge is not unlawful under applicable nonbankruptcy law, and is reasonable and provided for in the applicable security agreement;

''(4) the failure of a party to give notice described in paragraph (3) shall be deemed a waiver of any claim for any fee, cost, or charge described in paragraph (3) for all purposes, and any attempt to collect such a fee,

cost, or charge shall constitute a violation of section 524(a)(2) or, if the violation occurs before the date of discharge, of section 362(a); and

''(5) a plan may provide for the waiver of any prepayment penalty on a claim secured by the debtor's principal residence.''.

SEC. 505. CONFIRMATION OF PLAN.

Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5)—

(A) by inserting ''except as otherwise provided in section 1322(b)(11),'' after ''(5)''; and

(B) in subparagraph (B)(iii)(I), by inserting ''(including payments of a claim modified under section 1322(b)(11))'' after ''payments'' the 1st place that term appears;

(2) in paragraph (8), by striking ''and'' at the end;

(3) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(4) by inserting immediately after paragraph (9) the following:

''(10) notwithstanding paragraph (5)(B)(i)(I), in a case in which the plan modifies a claim in accordance with section 1322(b)(11), the holder of a claim whose rights are modified pursuant to section 1322(b)(11) retains the lien until the full payment of the allowed secured claim of the holder, together with postpetition interest, fees, costs, and charges permitted under section 1322(b)(11) and, if applicable, 1322(c)(3); and

''(11) in a case in which the plan modifies a claim in accordance with section 1322(b)(11), the court—

''(A) finds that the modification is in good faith, which the court may not find if the debtor has no need for relief under section 1322(b)(11) because the debtor can pay all of the debts of the debtor and any payment increases on such debts without difficulty for the foreseeable future, including the positive amortization of mortgage debt; and

''(B) does not find that the debtor has been criminally convicted of actual fraud in obtaining the extension, renewal, or refinancing of credit that gives rise to a modified claim.''.

SEC. 506. DISCHARGE.

Section 1328(a) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting ''(other than payments to holders of claims whose rights are modified under section 1322(b)(11))'' after ''paid''; and

(2) in paragraph (1), by inserting ''or, to the extent of the unpaid portion of an allowed secured claim, as provided for under section 1322(b)(11)'' after ''1322(b)(5)''.

SEC. 507. STANDING TRUSTEE FEES.

(a) AMENDMENT TO TITLE 28.—Section 586(e)(1)(B)(i) of title 28, United States Code, is amended—

(1) by inserting ''(I) except as provided in subclause (II),'' after ''(i)'';

(2) by striking ''or'' at the end and inserting ''and''; and

(3) by adding at the end the following:

''(II) 4 percent, with respect to payments received under section 1322(b)(11) of title 11, by the individual as a result of the operation of section 1322(b)(11)(C) of title 11, unless the bankruptcy court waives all fees with respect to such payments, based on a determination that the individual has income equal to less than 150 percent of the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved, and payment of such fees would render the plan of the debtor infeasible; or''.

(b) APPLICABILITY.—The amendments made by this section shall apply to any trustee to whom the provisions of section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) apply.

SEC. 508. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this title shall apply with respect to any case commenced under title 11 of the United States Code before, on, or after the date of enactment of this Act with respect to loans serviced by entities affiliated with entities for which participation in the Homeowner Affordability and Stability Plan announced and implemented by the Secretary of the Treasury on March 4, 2009, (and any successor thereto) is mandatory.

(2) EXCEPTION.—With respect to loans serviced by entities that are unaffiliated with entities for which participation in the Homeowner Affordability and Stability Plan is mandatory, and that have announced and implemented a policy of ceasing all foreclosure activities for 45 days after the date of enactment of this Act, the time period in clause (iii) of section 101(43A)(B) of title 11, United States Code (as added by this title), shall expire on the later of 90 days after the date of enactment of this Act or the date on which it would otherwise expire under that clause.

(3) LIMITATION.—The amendments made by this subtitle shall not apply with respect to any case closed under title 11 of the United States Code as of the date of enactment of this Act that is not pending on appeal in, nor appealable to, any court of the United States.

(b) SUNSET.—The amendments made by sections 501, 503, 505, 506, and 507 shall not apply to any case commenced under title 11 of the United States Code after the later of December 31, 2012 or the expiration of any extension of the Homeowner Affordability and Stability Plan (or any successor thereto).

SEC. 509. GAO STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall carry out a study of—

(1) the number of debtors who filed, during the 1-year period beginning on the date of enactment of this Act, cases under chapter 13 of title 11, United States Code, for the purpose of restructuring a mortgage loan secured by the principal residence of the debtor;

(2) the number of such mortgages restructured under the amendments made by this subtitle that subsequently resulted in default and foreclosure; and

(3) a comparison between the effectiveness of mortgages restructured under programs outside of bankruptcy law, such as Hope Now, the Homeowner Affordability and Stability Plan (as implemented by the Secretary of the Treasury on March 4, 2009), and the HOPE for Homeowners program, and mortgages restructured under the amendments made by this subtitle.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study required by subsection (a) to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

SEC. 510. UNENFORCEABILITY OF CERTAIN PROVISION AS BEING CONTRARY TO PUBLIC POLICY.

(a) CONGRESSIONAL FINDINGS.—Congress finds that—

(1) in conjunction with the amendments made by this subtitle, the enforcement of provisions of certain investment contracts in effect on the date of enactment of this Act, which require excess bankruptcy losses that exceed a certain dollar amount on residential mortgages to be borne by classes of certificates on a pro rata basis, would affect the parties to those contracts in ways that could not have occurred under the law in effect at the time at which such contracts were entered into, would interfere with the achievement of the purposes of this subtitle, and would have adverse effects on the national economy, potentially including adverse effects on the security of depositors of banking institutions and policyholders of insurance companies operating in interstate commerce; and

(2) to achieve the purposes of this subtitle to avoid preventable foreclosures, avoid unintended and adverse systemic effects on the national economy, and preserve the existing economic expectations of the parties to investment contracts to the extent reasonably possible, it is necessary that such provisions be unenforceable to the extent that such provisions refer to types of bankruptcy losses that could not have been incurred under the law in effect at the time at which such contracts were entered into.

(b) UNENFORCEABILITY OF PROVISIONS.—

(1) IN GENERAL.—Any bankruptcy loss allocation provision in any mortgage-backed securities contract in effect on the date of enactment of this Act shall be unenforceable as contrary to public policy, to the extent that such bankruptcy loss allocation provision allocates to senior classes of mortgage-backed securities of the issuer bankruptcy losses that could not have been incurred under the law in effect on the date on which such mortgage-backed securities contract was entered into, without the consent of the holder of the related residential mortgage or mortgages.

(2) EFFECT OF UNENFORCEABILITY.—Any bankruptcy losses that would have been allocated under a bankruptcy loss allocation provision that is unenforceable under paragraph (1) shall be allocated as if the bankruptcy losses constituted losses (other than bankruptcy losses) under the applicable mortgage-backed securities contract.

(c) COVERED BANKRUPTCY LOSSES.—For purposes of subsection (b), the term ''bankruptcy losses that could not have been incurred under the law in effect on the date on which such mortgage-backed securities contract was entered into, without the consent of the holder of the related residential mortgage or mortgages'' includes all bankruptcy losses incurred as a result of the application of section 1322(b)(11) of title 11, United States Code, as amended by this title.

(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BANKRUPTCY LOSS ALLOCATION PROVISION.—The term ''bankruptcy loss allocation provision'' means any provision in a mortgage-backed securities contract that allocates any portion of bankruptcy losses to senior classes of mortgage-backed securities of the issuer before the outstanding principal amount of subordinated classes of the mortgage-backed securities of the issuer has been reduced to zero as a result of the allocation of losses or otherwise.

(2) BANKRUPTCY LOSSES.—The term ''bankruptcy losses'' means any losses relating to residential mortgages held by a securitization vehicle that arise in a proceeding under title 11 of the United States Code.

(3) MORTGAGE-BACKED SECURITIES.—The term ''mortgage-backed securities'' means mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans.

(4) MORTGAGE-BACKED SECURITIES CONTRACT.—The term ''mortgage-backed securities contract'' means a contract or other instrument that governs the terms of mortgage-backed securities.

(5) SECURITIZATION VEHICLE.—The term ''securitization vehicle'' means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that—

(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans; and

(B) holds such mortgages.

Subtitle B—Related Mortgage Modification Provisions

SEC. 511. ADJUSTMENTS AS A RESULT OF MODIFICATION IN BANKRUPTCY OF HOUSING LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Section 3732(a)(2) of title 38, United States Code, is amended—

(1) by inserting ''(A)'' after ''(2)''; and

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

''(B) In the event that a housing loan guaranteed under this chapter is modified under the authority provided under section 1322(b)(11) of title 11, United States Code, the Secretary shall pay the holder of the obligation the unpaid balance of the obligation due as of the date of the filing of the petition under title 11, United States Code, plus accrued interest, but only upon the assignment, transfer, and delivery to the Secretary (in a form and manner satisfactory to the Secretary) of all rights, interest, claims, evidence, and records with respect to the housing loan.''.

(b) MATURITY OF HOUSING LOANS.—Section 3703(d)(1) of title 38, United States Code, is amended by inserting ''at the time of origination'' after ''loan''.

(c) IMPLEMENTATION.—The Secretary of Veterans Affairs may implement the amendments made by this section through notice, procedure notice, or administrative notice.

SEC. 512. PAYMENT OF FHA MORTGAGE INSURANCE BENEFITS.

(a) IN GENERAL.—Section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended—

(1) in paragraph (1), by adding at the end the following new subparagraph:

''(E) MODIFICATION OF MORTGAGE IN BANKRUPTCY.—

''(i) AUTHORITY.—If an order is entered under the authority provided under section 1322(b)(11) of title 11, United States Code, that (a) determines the amount of an allowed secured claim under a mortgage in accordance with section 506(a)(1) of title 11, United States Code, and the amount of such allowed secured claim is less than the amount due under the mortgage as of the date of the filing of the petition under title 11, United States Code, or (b) reduces the interest to be paid under a mortgage in accordance with section 1325 of such title, the Secretary shall pay insurance benefits for the mortgage in 1 of the following manners:

''(I) FULL PAYMENT AND ASSIGNMENT.—The Secretary may pay the insurance benefits for the mortgage, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage specified in clauses (i) through (iv) of paragraph (1)(A). The insurance benefits shall be paid in the amount equal to the original principal obligation of the mortgage (with such additions and deductions as the Secretary determines are appropriate) which was unpaid upon the date of the filing by the mortgagor of the petition under title 11 of the United States Code. Nothing in this clause may be construed to prevent the Secretary from providing insurance under this title for a mortgage that has previously been assigned to the Secretary under this subclause.

''(II) ASSIGNMENT OF UNSECURED CLAIM.—The Secretary may make a partial payment of the insurance benefits for any unsecured claim under the mortgage, but only upon the assignment to the Secretary of any unsecured claim of the mortgagee against the mortgagor or others arising out of such order. Such assignment shall be deemed valid irrespective of whether such claim has been or will be discharged under title 11 of the United States Code. The insurance benefits shall be paid in the amount specified in subclause (I) of this clause, as such amount is reduced by the amount of the allowed secured claim. Such allowed secured claim shall continue to be insured under section 203.

''(III) INTEREST PAYMENTS.—The Secretary may make periodic payments, or a one-time payment, of insurance benefits for interest payments that are reduced pursuant to such order, as determined by the Secretary, but only upon assignment to the Secretary of all rights and interest related to such payments.

''(ii) DELIVERY OF EVIDENCE OF ENTRY OF ORDER.—Notwithstanding any other provision of this paragraph, no insurance benefits may be paid pursuant to this subparagraph for a mortgage before delivery to the Secretary of evidence of the entry of the order issued pursuant to title 11, United States Code, in a form satisfactory to the Secretary.''; and

(2) in paragraph (5), in the matter preceding subparagraph (A), by inserting after ''section 520, and'' the following: '', except as provided in paragraph (1)(E),''.

(b) IMPLEMENTATION.—The Secretary of Housing and Urban Development may implement the amendments made by this section through notice or mortgagee letter.

SEC. 513. ADJUSTMENTS AS RESULT OF MODIFICATION OF RURAL SINGLE FAMILY HOUSING LOANS IN BANKRUPTCY.

(a) GUARANTEED RURAL HOUSING LOANS.—Section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) in paragraph (7)—

(A) in subparagraph (A), by inserting before the semicolon at the end the following: '', unless the maturity date of the loan is modified in a bankruptcy proceeding or authorized at the discretion of the Secretary in accordance with paragraph (15)(A)''; and

(B) in subparagraph (B), by inserting before the semicolon the following: '', unless such rate is modified in a bankruptcy proceeding or as provided in paragraph (14) or (15)'';

(2) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(3) by inserting after paragraph (12) the following new paragraphs:

''(13) PAYMENT OF LOSSES.—To pay for losses incurred by holders or servicers in the event of a modification pursuant to the authority provided under section 1322(b)(11) of title 11, United States Code, that either (1) determines the amount of an allowed secured claim under a mortgage in accordance with section 506(a)(1) of title 11, United States Code, and the amount of such allowed secured claim is less than the amount due under the mortgage as of the date of the filing of the petition under title 11, United States Code, or (2) reduces the interest to be paid under a mortgage in accordance with section 1325 of such title, as follows:

''(A) FULL PAYMENT AND ASSIGNMENT.—The Secretary may pay the guarantee for the mortgage, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage. The guarantee shall be paid in the amount equal to the original principal obligation of the mortgage (with such additions and deductions as the Secretary determines are appropriate) which was unpaid upon the date of the filing by the mortgagor of the petition under title 11 of the United States Code. Nothing in this subparagraph may be construed to prevent the Secretary from providing a guarantee under this subsection for a mortgage that has previously been assigned to the Secretary under this subparagraph.

''(B) ASSIGNMENT OF UNSECURED CLAIM.—The Secretary may make a partial payment of the guarantee for any unsecured claim under the mortgage, but only upon the assignment to the Secretary of any unsecured claim of the mortgagee against the mortgagor or others arising out of such order. Such assignment shall be deemed valid irrespective of whether such claim has been or will be discharged under title 11 of the United States Code. The guarantee shall be paid in the amount specified subparagraph (A), as such amount is reduced by the amount of the allowed secured claim. Such allowed secured claim shall continue to be insured under section 1472 and 1487, without reduction for any amounts modified.

''(C) INTEREST PAYMENTS.—The Secretary may make periodic payments, or a one-time payment, of guarantees for interest payments that are reduced pursuant to such order, as determined by the Secretary, but only upon assignment to the Secretary of all rights and interest related to such payments.

''(D) DELIVERY OF EVIDENCE OF ENTRY OF ORDER.—Notwithstanding any other provision of this section, no guarantees may be paid pursuant to this paragraph for a mortgage before delivery to the Secretary of evidence of the entry of the order issued pursuant to title 11, United States Code, in a form satisfactory to the Secretary.''.

(b) INSURED RURAL HOUSING LOANS.—Section 517(j) of the Housing Act of 1949 (42 U.S.C. 1487(j)) is amended—

(1) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively; and

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

''(2) to pay for losses incurred by holders or servicers in the event of a modification pursuant to a bankruptcy proceeding;''.

(c) TECHNICAL AMENDMENTS.—Subsection (h) of section 502 of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) in paragraph (5)(A), by striking ''(as defined in paragraph (13)'' and inserting ''(as defined in paragraph (14)''; and

(2) in paragraph (18)(E) (as so redesignated by subsection (a)(2)), by—

(A) striking ''paragraphs (3), (6), (7)(A), (8), and (10)'' and inserting ''paragraphs (3), (6), (7)(A), (8), (10), and (13)''; and

(B) striking ''paragraphs (2) through (13)'' and inserting ''paragraphs (2) through (15)''.

(d) PROCEDURE.—

(1) IN GENERAL.—The promulgation of regulations necessitated and the administration actions required by the amendments made by this section shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(2) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, and the amendments made by this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SA 1015. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

SEC. 103. PROHIBITION ON YIELD SPREAD PREMIUMS.

(a) IN GENERAL.—No person shall provide, and no mortgage originator shall receive, directly or indirectly, any compensation that is based on, or varies with, the terms of any home mortgage loan (other than the amount of the loan).

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

(1) the term ''home mortgage loan'' means a loan secured by a mortgage or lien on residential property;

(2) the term ''mortgage originator'' means any creditor or other person, including a mortgage broker or bank lender, who, for compensation or in anticipation of compensation, engages either directly or indirectly in the—

(A) acceptance of applications for home mortgage loans;

(B) solicitation of home mortgage loans on behalf of borrowers;

(C) negotiation of terms or conditions of home mortgage loans on behalf of borrowers or lenders; or

(D) negotiation of sales of existing home mortgage loans to institutional or non-institutional lenders; and

(3) the term ''residential property'' means a 1–4 family, owner-occupied residence, including a 1-family unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

SEC. 104. PROHIBITION ON PREPAYMENT PENALTIES.

The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 129A the following new section:

''SEC. 129B. PROHIBITION ON PREPAYMENT PENALTIES.

''No prepayment fees or penalties shall be charged or collected under the terms of any consumer credit transaction secured by an owner-occupied principal dwelling of the consumer. Any prepayment penalty in violation of this section shall be unenforceable.''.

SA 1016. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; as follows:

At the appropriate place, insert the following:

SEC. ___. REPAYMENT OF TARP FUNDS.

Section 111(g) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(g)) is amended—

(1) by striking ''Subject to'' and inserting the following:

''(1) REPAYMENT PERMITTED.—Subject to'';

(2) by inserting ''if, subsequent to such repayment, the TARP recipient is well capitalized (as determined by the appropriate Federal banking agency having supervisory authority over the TARP recipient)'' after ''waiting period,'';

(3) by striking '', and when such assistance is repaid, the Secretary shall liquidate warrants associated with such assistance at the current market price''; and

(4) by adding at the end the following:

''(2) NO REPAYMENT PRECONDITION FOR WARRANTS.—A TARP recipient that exercises the repayment authority under paragraph (1) shall not be required to repurchase warrants from the Federal Government as a condition of repayment of assistance provided under the TARP. The Secretary shall, at the request of the relevant TARP recipient, repay the proceeds of warrants repurchased before the date of enactment of this paragraph.''.

SA 1017. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; as follows:

At the appropriate place, insert the following:

SEC. ___. DUTIES OF THE FHA.

(a) DUTY TO MAINTAIN SOLVENCY.—Notwithstanding any other provision of law or of this Act, the primary and foundational responsibility of the Federal Housing Administration shall be to safeguard and preserve the solvency of the Administration.

(b) SUSPENSION OF ACTIVITIES.—If in the determination of the Commissioner of the Federal Housing Administration, any existing Federal requirement, program, or law, or any amendment to such requirement, program, or law made by this Act, threatens the solvency of the Administration or makes the Administration reasonably likely to need a credit subsidy from Congress, the Commissioner shall—

(1) temporary suspend any such requirement, program, or law; and

(2) recommend legislation to the appropriate congressional committees to address such solvency issues.

SA 1018. Mr. DODD (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Helping Families Save Their Homes Act of 2009''.

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

Sec. 1. Short title; table of contents.

TITLE I—PREVENTION OF MORTGAGE FORECLOSURES

Sec. 101. Guaranteed rural housing loans.
Sec. 102. Modification of housing loans guaranteed by the Department of Veterans Affairs.
Sec. 103. Additional funding for HUD programs to assist individuals to better withstand the current mortgage crisis.
Sec. 104. Mortgage modification data collecting and reporting.

TITLE II—FORECLOSURE MITIGATION AND CREDIT AVAILABILITY

Sec. 201. Servicer safe harbor for mortgage loan modifications.
Sec. 202. Changes to HOPE for Homeowners Program.
Sec. 203. Requirements for FHA-approved mortgagees.
Sec. 204. Enhancement of liquidity and stability of insured depository institutions to ensure availability of credit and reduction of foreclosures.
Sec. 205. Application of GSE conforming loan limit to mortgages assisted with TARP funds.
Sec. 206. Mortgages on certain homes on leased land.
Sec. 207. Sense of Congress regarding mortgage revenue bond purchases.

TITLE III—MORTGAGE FRAUD TASK FORCE

Sec. 301. Sense of the Congress on establishment of a Nationwide Mortgage Fraud Task Force.

TITLE IV—FORECLOSURE MORATORIUM PROVISIONS

Sec. 401. Sense of the Congress on foreclosures.

TITLE I—PREVENTION OF MORTGAGE FORECLOSURES

SEC. 101. GUARANTEED RURAL HOUSING LOANS.

(a) GUARANTEED RURAL HOUSING LOANS.—Section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (16) and (17), respectively; and

(2) by inserting after paragraph (12) the following new paragraphs:

''(13) LOSS MITIGATION.—Upon default or imminent default of any mortgage guaranteed under this subsection, mortgagees shall engage in loss mitigation actions for the purpose of providing an alternative to foreclosure (including actions such as special forbearance, loan modification, pre-foreclosure sale, deed in lieu of foreclosure, as required, support for borrower housing counseling, subordinate lien resolution, and borrower relocation), as provided for by the Secretary.

''(14) PAYMENT OF PARTIAL CLAIMS AND MORTGAGE MODIFICATIONS.—The Secretary may authorize the modification of mortgages, and establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence, for mortgages that are in default or face imminent default, as defined by the Secretary. Any payment under such program directed to the mortgagee shall be made at the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

''(A) the amount of the partial claim payment shall be in an amount determined by the Secretary, and shall not exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

''(B) the amount of the partial claim payment shall be applied first to any outstanding indebtedness on the mortgage, including any arrearage, but may also include principal reduction;

''(C) the mortgagor shall agree to repay the amount of the partial claim to the Secretary upon terms and conditions acceptable to the Secretary;

''(D) expenses related to a partial claim or modification are not to be charged to the borrower;

''(E) the Secretary may authorize compensation to the mortgagee for lost income on monthly mortgage payments due to interest rate reduction;

''(F) the Secretary may reimburse the mortgagee from the appropriate guaranty fund in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary;

''(G) the Secretary may authorize payments to the mortgagee on behalf of the borrower, under such terms and conditions as are defined by the Secretary, based on successful performance under the terms of the mortgage modification, which shall be used to reduce the principal obligation under the modified mortgage; and

''(H) the Secretary may authorize the modification of mortgages with terms extended up to 40 years from the date of modification.

''(15) ASSIGNMENT.—

''(A) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence guaranteed under this chapter.

''(B) PROGRAM REQUIREMENTS.—

''(i) IN GENERAL.—The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of the guaranty and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved under this section.

''(ii) ACCEPTANCE OF ASSIGNMENT.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

''(I) the mortgage is in default or facing imminent default;

''(II) the mortgagee has modified the mortgage or qualified the mortgage for modification sufficient to cure the default and provide for mortgage payments the mortgagor is reasonably able to pay, at interest rates not exceeding current market interest rates; and

''(III) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate guaranty fund.

''(C) PAYMENT OF GUARANTY.—Under the program under this paragraph, the Secretary may pay the guaranty for a mortgage, in the amount determined in accordance with paragraph (2), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage, as defined by the Secretary.

''(D) DISPOSITION.—After modification of a mortgage pursuant to this paragraph, and assignment of the mortgage, the Secretary may provide guarantees under this subsection for the mortgage. The Secretary may subsequently—

''(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

''(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

''(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

''(E) LOAN SERVICING.—In carrying out the program under this subsection, the Secretary may require the existing servicer of a mortgage assigned to the Secretary under the program to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage. If the mortgage is resold pursuant to subparagraph (D)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.''.

(b) TECHNICAL AMENDMENTS.—Subsection (h) of section 502 of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) in paragraph (5)(A), by striking ''(as defined in paragraph (13)'' and inserting ''(as defined in paragraph (17)''; and

(2) in paragraph (18)(E)(as so redesignated by subsection (a)(2)), by—

(A) striking ''paragraphs (3), (6), (7)(A), (8), and (10)'' and inserting ''paragraphs (3), (6), (7)(A), (8), (10), (13), and (14)''; and

(B) striking ''paragraphs (2) through (13)'' and inserting ''paragraphs (2) through (15)''.

(c) PROCEDURE.—

(1) IN GENERAL.—The promulgation of regulations necessitated and the administration actions required by the amendments made by this section shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(2) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, and the amendments made by this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 102. MODIFICATION OF HOUSING LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) MATURITY OF HOUSING LOANS.—Section 3703(d)(1) of title 38, United States Code, is amended by inserting ''at the time of origination'' after ''loan''.

(b) IMPLEMENTATION.—The Secretary of Veterans Affairs may implement the amendments made by this section through notice, procedure notice, or administrative notice.

SEC. 103. ADDITIONAL FUNDING FOR HUD PROGRAMS TO ASSIST INDIVIDUALS TO BETTER WITHSTAND THE CURRENT MORTGAGE CRISIS.

(a) ADDITIONAL APPROPRIATIONS FOR ADVERTISING TO INCREASE PUBLIC AWARENESS OF MORTGAGE SCAMS AND COUNSELING ASSISTANCE.—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, $10,000,000 for each of the fiscal years 2010 and 2011 for purposes of providing additional resources to be used for advertising to raise awareness of mortgage fraud and to support HUD programs and approved counseling agencies, provided that such amounts are used to advertise in the 100 metropolitan statistical areas with the highest rate of home foreclosures, and provided, further that up to $5,000,000 of such amounts are used for advertisements designed to reach and inform broad segments of the community.

(b) ADDITIONAL APPROPRIATIONS FOR THE HOUSING COUNSELING ASSISTANCE PROGRAM.—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, $50,000,000 for each of the fiscal years 2010 and 2011 to carry out the Housing Counseling Assistance Program established within the Department of Housing and Urban Development, provided that such amounts are used to fund HUD-certified housing-counseling agencies located in the 100 metropolitan statistical areas with the highest rate of home foreclosures for the purpose of assisting homeowners with inquiries regarding mortgage-modification assistance and mortgage scams.

(c) ADDITIONAL APPROPRIATIONS FOR PERSONNEL AT THE OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY.—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, $5,000,000 for each of the fiscal years 2010 and 2011 for purposes of hiring additional personnel at the Office of Fair Housing and Equal Opportunity within the Department of Housing and Urban Development, provided that such amounts are used to hire personnel at the local branches of such Office located in the 100 metropolitan statistical areas with the highest rate of home foreclosures.

SEC. 104. MORTGAGE MODIFICATION DATA COLLECTING AND REPORTING.

(a) REPORTING REQUIREMENTS.—Not later than 120 days after the date of the enactment of this Act, and quarterly thereafter, the Comptroller of the Currency and the Director of the Office of Thrift Supervision, shall jointly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives on the volume of mortgage modifications reported to the Office of the Comptroller of the Currency and the Office of Thrift Supervision, under the mortgage metrics program of each such Office, during the previous quarter, including the following:

(1) A copy of the data collection instrument currently used by the Office of the Comptroller of the Currency and the Office of Thrift Supervision to collect data on loan modifications.

(2) The total number of mortgage modifications resulting in each of the following:

(A) Additions of delinquent payments and fees to loan balances.

(B) Interest rate reductions and freezes.

(C) Term extensions.

(D) Reductions of principal.

(E) Deferrals of principal.

(F) Combinations of modifications described in subparagraph (A), (B), (C), (D), or (E).

(3) The total number of mortgage modifications in which the total monthly principal and interest payment resulted in the following:

(A) An increase.

(B) Remained the same.

(C) Decreased less than 10 percent.

(D) Decreased between 10 percent and 20 percent.

(E) Decreased 20 percent or more.

(4) The total number of loans that have been modified and then entered into default, where the loan modification resulted in—

(A) higher monthly payments by the homeowner;

(B) equivalent monthly payments by the homeowner;

(C) lower monthly payments by the homeowner of up to 10 percent;

(D) lower monthly payments by the homeowner of between 10 percent to 20 percent; or

(E) lower monthly payments by the homeowner of more than 20 percent.

(b) DATA COLLECTION.—

(1) REQUIRED.—

(A) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Comptroller of the Currency and the Director of the Office of Thrift Supervision,

shall issue mortgage modification data collection and reporting requirements to institutions covered under the reporting requirement of the mortgage metrics program of the Comptroller or the Director.

(B) INCLUSIVENESS OF COLLECTIONS.—The requirements under subparagraph (A) shall provide for the collection of all mortgage modification data needed by the Comptroller of the Currency and the Director of the Office of Thrift Supervision to fulfill the reporting requirements under subsection (a).

(2) REPORT.—The Comptroller of the Currency shall report all requirements established under paragraph (1) to each committee receiving the report required under subsection (a).

TITLE II—FORECLOSURE MITIGATION AND CREDIT AVAILABILITY

SEC. 201. SERVICER SAFE HARBOR FOR MORTGAGE LOAN MODIFICATIONS.

(a) CONGRESSIONAL FINDINGS.—Congress finds the following:

(1) Increasing numbers of mortgage foreclosures are not only depriving many Americans of their homes, but are also destabilizing property values and negatively affecting State and local economies as well as the national economy.

(2) In order to reduce the number of foreclosures and to stabilize property values, local economies, and the national economy, servicers must be given—

(A) authorization to—

(i) modify mortgage loans and engage in other loss mitigation activities consistent with applicable guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008; and

(ii) refinance mortgage loans under the Hope for Homeowners program; and

(B) a safe harbor to enable such servicers to exercise these authorities.

(b) SAFE HARBOR.—Section 129A of the Truth in Lending Act (15 U.S.C. 1639a) is amended to read as follows:

"SEC. 129. DUTY OF SERVICERS OF RESIDENTIAL MORTGAGES.

''(a) IN GENERAL.—Notwithstanding any other provision of law, whenever a servicer of residential mortgages agrees to enter into a qualified loss mitigation plan with respect to 1 or more residential mortgages originated before the date of enactment of the Helping Families Save Their Homes Act of 2009, including mortgages held in a securitization or other investment vehicle—

''(1) to the extent that the servicer owes a duty to investors or other parties to maximize the net present value of such mortgages, the duty shall be construed to apply to all such investors and parties, and not to any individual party or group of parties; and

''(2) the servicer shall be deemed to have satisfied the duty set forth in paragraph (1) if, before December 31, 2012, the servicer implements a qualified loss mitigation plan that meets the following criteria:

''(A) Default on the payment of such mortgage has occurred, is imminent, or is reasonably foreseeable, as such terms are defined by guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008.

''(B) The mortgagor occupies the property securing the mortgage as his or her principal residence.

''(C) The servicer reasonably determined, consistent with the guidelines issued by the Secretary of the Treasury or his designee, that the application of such qualified loss mitigation plan to a mortgage or class of mortgages will likely provide an anticipated recovery on the outstanding principal mortgage debt that will exceed the anticipated recovery through foreclosures.

''(b) NO LIABILITY.—A servicer that is deemed to be acting in the best interests of all investors or other parties under this section shall not be liable to any party who is owed a duty under subsection (a)(1), and shall not be subject to any injunction, stay, or other equitable relief to such party, based solely upon the implementation by the servicer of a qualified loss mitigation plan.

''(c) STANDARD INDUSTRY PRACTICE.—The qualified loss mitigation plan guidelines issued by the Secretary of the Treasury under the Emergency Economic Stabilization Act of 2008 shall constitute standard industry practice for purposes of all Federal and State laws.

''(d) SCOPE OF SAFE HARBOR.—Any person, including a trustee, issuer, and loan originator, shall not be liable for monetary damages or be subject to an injunction, stay, or other equitable relief, based solely upon the cooperation of such person with a servicer when such cooperation is necessary for the servicer to implement a qualified loss mitigation plan that meets the requirements of subsection (a).

''(e) REPORTING.—Each servicer that engages in qualified loss mitigation plans under this section shall regularly report to the Secretary of the Treasury the extent, scope, and results of the servicer's modification activities. The Secretary of the Treasury shall prescribe regulations or guidance specifying the form, content, and timing of such reports.

''(f) DEFINITIONS.—As used in this section—

''(1) the term 'qualified loss mitigation plan' means—

''(A) a residential loan modification, workout, or other loss mitigation plan, including to the extent that the Secretary of the Treasury determines appropriate, a loan sale, real property disposition, trial modification, pre-foreclosure sale, and deed in lieu of foreclosure, that is described or authorized in guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008; and

''(B) a refinancing of a mortgage under the Hope for Homeowners program;

''(2) the term 'servicer' means the person responsible for the servicing for others of residential mortgage loans(including of a pool of residential mortgage loans); and

''(3) the term 'securitization vehicle' means a trust, special purpose entity, or other legal structure that is used to facilitate the issuing of securities, participation certificates, or similar instruments backed by or referring to a pool of assets that includes residential mortgages (or instruments that are related to residential mortgages such as credit-linked notes).''.

SEC. 202. CHANGES TO HOPE FOR HOMEOWNERS PROGRAM.

(a) PROGRAM CHANGES.—Section 257 of the National Housing Act (12 U.S.C. 1715z–23) is amended—

(1) in subsection (c)—

(A) in the heading for paragraph (1), by striking ''THE BOARD'' and inserting ''SECRETARY'';

(B) in paragraph (1), by striking ''Board'' inserting ''Secretary, after consultation with the Board,'';

(C) in paragraph (1)(A), by inserting ''consistent with section 203(b) to the maximum extent possible'' before the semicolon; and

(D) by adding after paragraph (2) the following:

''(3) DUTIES OF BOARD.—The Board shall advise the Secretary regarding the establishment and implementation of the HOPE for Homeowners Program.'';

(2) by striking ''Board'' each place such term appears in subsections (e), (h)(1), (h)(3), (j), (l), (n), (s)(3), and (v) and inserting ''Secretary'';

(3) in subsection (e)—

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

''(1) BORROWER CERTIFICATION.—

''(A) NO INTENTIONAL DEFAULT OR FALSE INFORMATION.—The mortgagor shall provide a certification to the Secretary that the mortgagor has not intentionally defaulted on the existing mortgage or mortgages or any other substantial debt within the last 5 years and has not knowingly, or willfully and with actual knowledge, furnished material information known to be false for the purpose of obtaining the eligible mortgage to be insured and has not been convicted under Federal or State law for fraud during the 10-year period ending upon the insurance of the mortgage under this section.

''(B) LIABILITY FOR REPAYMENT.—The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Secretary any direct financial benefit achieved from the reduction of indebtedness on the existing mortgage or mortgages on the residence refinanced under this section derived from misrepresentations made by the mortgagor in the certifications and documentation required under this paragraph, subject to the discretion of the Secretary.

''(C) CURRENT BORROWER DEBT-TO-INCOME RATIO.—As of the date of application for a commitment to insure or insurance under this section, the mortgagor shall have had, or thereafter is likely to have, due to the terms of the mortgage being reset, a ratio of mortgage debt to income, taking into consideration all existing mortgages of that mortgagor at such time, greater than 31 percent (or such higher amount as the Secretary determines appropriate).'';

(B) in paragraph (4)—

(i) in subparagraph (A), by striking '', subject to standards established by the Board under subparagraph (B),''; and

(ii) in subparagraph (B)(i), by striking ''shall'' and inserting ''may''; and

(C) in paragraph (7), by striking ''; and provided that'' and all that follows through ''new second lien'';

(D) in paragraph (9)—

(i) by striking ''by procuring (A) an income tax return transcript of the income tax return of the mortgagor, or (B)'' and inserting ''in accordance with procedures and standards that the Secretary shall establish (provided that such procedures and standards are consistent with section 203(b) to the maximum extent possible) which may include requiring the mortgagee to procure''; and

(ii) by striking ''and by any other method, in accordance with procedures and standards that the Board shall establish'';

(E) in paragraph (10)—

(i) by striking ''The mortgagor shall not'' and inserting the following:

''(A) PROHIBITION.—The mortgagor shall not''; and

(ii) by adding at the end the following:

''(B) DUTY OF MORTGAGEE.—The duty of the mortgagee to ensure that the mortgagor is in compliance with the prohibition under subparagraph (A) shall be satisfied if the mortgagee makes a good faith effort to determine that the mortgagor has not been convicted under Federal or State law for fraud during the period described in subparagraph (A).'';

(F) in paragraph (11), by inserting before the period at the end the following: '', except that the Secretary may provide exceptions to such latter requirement (relating to present ownership interest) for any mortgagor who has inherited a property''; and

(G) by adding at the end:

''(12) BAN ON MILLIONAIRES.—The mortgagor shall not have a net worth, as of the

date the mortgagor first applies for a mortgage to be insured under the Program under this section, that exceeds $1,000,000.'';

(4) in subsection (h)(2), by striking ''The Board shall prohibit the Secretary from paying'' and inserting ''The Secretary shall not pay''; and

(5) in subsection (i)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(B) in the matter preceding subparagraph (A), as redesignated by this paragraph, by striking ''For each'' and inserting the following:

''(1) PREMIUMS.—For each'';

(C) in subparagraph (A), as redesignated by this paragraph, by striking ''equal to 3 percent'' and inserting ''not more than 3 percent''; and

(D) in subparagraph (B), as redesignated by this paragraph, by striking ''equal to 1.5 percent'' and inserting ''not more than 1.5 percent'';

(E) by adding at the end the following:

''(2) CONSIDERATIONS.—In setting the premium under this subsection, the Secretary shall consider—

''(A) the financial integrity of the HOPE for Homeowners Program; and

''(B) the purposes of the HOPE for Homeowners Program described in subsection (b).'';

(6) in subsection (k)—

(A) by striking the subsection heading and inserting ''EXIT FEE'';

(B) in paragraph (1), in the matter preceding subparagraph (A), by striking ''such sale or refinancing'' and inserting ''the mortgage being insured under this section''; and

(C) in paragraph (2), by striking ''and the mortgagor'' and all that follows through the end and inserting ''may, upon any sale or disposition of the property to which the mortgage relates, be entitled to up to 50 percent of appreciation, up to the appraised value of the home at the time when the mortgage being refinanced under this section was originally made. The Secretary may share any amounts received under this paragraph with the holder of the existing senior mortgage on the eligible mortgage, the holder of any existing subordinate mortgage on the eligible mortgage, or both.'';

(7) in the heading for subsection (n), by striking ''THE BOARD'' and inserting ''SECRETARY'';

(8) in subsection (p), by striking ''Under the direction of the Board, the'' and inserting ''The'';

(9) in subsection (s)—

(A) in the first sentence of paragraph (2), by striking ''Board of Directors of'' and inserting ''Advisory Board for''; and

(B) in paragraph (3)(A)(ii), by striking ''subsection (e)(1)(B) and such other'' and inserting ''such'';

(10) in subsection (v), by inserting after the period at the end the following: ''The Secretary shall conform documents, forms, and procedures for mortgages insured under this section to those in place for mortgages insured under section 203(b) to the maximum extent possible consistent with the requirements of this section.''; and

(11) by adding at the end the following new subsections:

''(x) PAYMENTS TO SERVICERS AND ORIGINATORS.—The Secretary may establish a payment to the—

''(1) servicer of the existing senior mortgage for every loan insured under the HOPE for Homeowners Program; and

''(2) originator of each new loan insured under the HOPE for Homeowners Program.

''(y) AUCTIONS.—The Secretary, with the concurrence of the Board, shall, if feasible, establish a structure and organize procedures for an auction to refinance eligible mortgages on a wholesale or bulk basis.''.

(b) REDUCING TARP FUNDS TO OFFSET COSTS OF PROGRAM CHANGES.—Paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting '', as such amount is reduced by $2,316,000,000,'' after ''$700,000,000,000''.

(c) TECHNICAL CORRECTION.—The second section 257 of the National Housing Act (Public Law 110-289; 122 Stat. 2839; 12 U.S.C. 1715z–24) is amended by striking the section heading and inserting the following:

''SEC. 258. PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.''.

SEC. 203. REQUIREMENTS FOR FHA-APPROVED MORTGAGEES.

(a) MORTGAGEE REVIEW BOARD.—

(1) IN GENERAL.—Section 202(c)(2) of the National Housing Act (12 U.S.C. 1708(c)) is amended—

(A) in subparagraph (E), by inserting ''and'' after the semicolon;

(B) in subparagraph (F), by striking ''; and'' and inserting ''or their designees.''; and

(C) by striking subparagraph (G).

(2) PROHIBITION AGAINST LIMITATIONS ON MORTGAGEE REVIEW BOARD'S POWER TO TAKE ACTION AGAINST MORTGAGEES.—Section 202(c) of the National Housing Act (12 U.S.C. 1708(c)) is amended by adding at the end the following new paragraph:

''(9) PROHIBITION AGAINST LIMITATIONS ON MORTGAGEE REVIEW BOARD'S POWER TO TAKE ACTION AGAINST MORTGAGEES.—No State or local law, and no Federal law (except a Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Board of its power to take any action authorized under paragraphs (3) and (6) of this subsection against any mortgagee.''.

(b) LIMITATIONS ON PARTICIPATION AND MORTGAGEE APPROVAL AND USE OF NAME.—Section 202 of the National Housing Act (12 U.S.C. 1708) is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following new subsection:

''(d) LIMITATIONS ON PARTICIPATION IN ORIGINATION AND MORTGAGEE APPROVAL.—

''(1) REQUIREMENT.—Any person or entity that is not approved by the Secretary to serve as a mortgagee, as such term is defined in subsection (c)(7), shall not participate in the origination of an FHA-insured loan except as authorized by the Secretary.

''(2) ELIGIBILITY FOR APPROVAL.—In order to be eligible for approval by the Secretary, an applicant mortgagee shall not be, and shall not have any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the applicant mortgagee who is—

''(A) currently suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under part 25 of title 24 of the Code of Federal Regulations, 2 Code of Federal Regulations, part 180 as implemented by part 2424, or any successor regulations to such parts, or under similar provisions of any other Federal agency;

''(B) under indictment for, or has been convicted of, an offense that reflects adversely upon the applicant's integrity, competence or fitness to meet the responsibilities of an approved mortgagee;

''(C) subject to unresolved findings contained in a Department of Housing and Urban Development or other governmental audit, investigation, or review;

''(D) engaged in business practices that do not conform to generally accepted practices of prudent mortgagees or that demonstrate irresponsibility;

''(E) convicted of, or who has pled guilty or nolo contendre to, a felony related to participation in the real estate or mortgage loan industry—

''(i) during the 7-year period preceding the date of the application for licensing and registration; or

''(ii) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

''(F) in violation of provisions of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any applicable provision of State law; or

''(G) in violation of any other requirement as established by the Secretary.

''(3) RULEMAKING AND IMPLEMENTATION.—The Secretary shall conduct a rulemaking to carry out this subsection. The Secretary shall implement this subsection not later than the expiration of the 60-day period beginning upon the date of the enactment of this subsection by notice, mortgagee letter, or interim final regulations, which shall take effect upon issuance.''; and

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

''(h) USE OF NAME.—The Secretary shall, by regulation, require each mortgagee approved by the Secretary for participation in the FHA mortgage insurance programs of the Secretary—

''(1) to use the business name of the mortgagee that is registered with the Secretary in connection with such approval in all advertisements and promotional materials, as such terms are defined by the Secretary, relating to the business of such mortgagee in such mortgage insurance programs; and

''(2) to maintain copies of all such advertisements and promotional materials, in such form and for such period as the Secretary requires.''.

(c) PAYMENT FOR LOSS MITIGATION.—Section 204(a)(2) of the National Housing Act (12 U.S.C. 1710(a)(2)) is amended—

(1) by inserting ''or faces imminent default, as defined by the Secretary'' after ''default'';

(2) by inserting ''support for borrower housing counseling, partial claims, borrower incentives, preforeclosure sale,'' after ''loan modification,''; and

(3) by striking ''204(a)(1)(A)'' and inserting ''subsection (a)(1)(A) or section 203(c)''.

(d) PAYMENT OF FHA MORTGAGE INSURANCE BENEFITS.—

(1) ADDITIONAL LOSS MITIGATION ACTIONS.—Section 230(a) of the National Housing Act (12 U.S.C. 1715u(a)) is amended—

(A) by inserting ''or imminent default, as defined by the Secretary'' after ''default'';

(B) by striking ''loss'' and inserting ''loan'';

(C) by inserting ''preforeclosure sale, support for borrower housing counseling, subordinate lien resolution, borrower incentives,'' after ''loan modification,'';

(D) by inserting ''as required,'' after ''deeds in lieu of foreclosure,''; and

(E) by inserting ''or section 230(c),'' before ''as provided''.

(2) AMENDMENT TO PARTIAL CLAIM AUTHORITY.—Section 230(b) of the National Housing Act (12 U.S.C. 1715u(b)) is amended to read as follows:

''(b) PAYMENT OF PARTIAL CLAIM.—

''(1) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default or faces imminent default, as defined by the Secretary.

''(2) PAYMENTS AND EXCEPTIONS.—Any payment of a partial claim under the program established in paragraph (1) to a mortgagee shall be made in the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

''(A) the amount of the payment shall be in an amount determined by the Secretary, not to exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

''(B) the amount of the partial claim payment shall first be applied to any arrearage on the mortgage, and may also be applied to achieve principal reduction;

''(C) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary;

''(D) the Secretary may permit compensation to the mortgagee for lost income on monthly payments, due to a reduction in the interest rate charged on the mortgage;

''(E) expenses related to the partial claim or modification may not be charged to the borrower;

''(F) loans may be modified to extend the term of the mortgage to a maximum of 40 years from the date of the modification; and

''(G) the Secretary may permit incentive payments to the mortgagee, on the borrower's behalf, based on successful performance of a modified mortgage, which shall be used to reduce the amount of principal indebtedness.

''(3) PAYMENTS IN CONNECTION WITH CERTAIN ACTIVITIES.—The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.''.

(3) ASSIGNMENT.—Section 230(c) of the National Housing Act (12 U.S.C. 1715u(c)) is amended—

(A) by inserting ''(1)'' after ''(c)'';

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(C) in paragraph (1)(B) (as so redesignated)—

(i) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(ii) in the matter preceding clause (i) (as so redesignated), by striking ''under a program under this subsection'' and inserting ''under this paragraph''; and

(iii) in clause (i) (as so redesignated), by inserting ''or facing imminent default, as defined by the Secretary'' after ''default'';

(D) in paragraph (1)(C) (as so redesignated), by striking ''under a program under this subsection'' and inserting ''under this paragraph''; and

(E) by adding at the end the following:

''(2) ASSIGNMENT AND LOAN MODIFICATION.—

''(A) AUTHORITY.—The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of insurance benefits and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved by the mortgagee.

''(B) PAYMENT OF BENEFITS AND ASSIGNMENT.—In carrying out this paragraph, the Secretary may pay insurance benefits for a mortgage, in the amount determined in accordance with section 204(a)(5), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage specified in clauses (i) through (iv) of section 204(a)(1)(A).

''(C) DISPOSITION.—After modification of a mortgage pursuant to this paragraph, the Secretary may provide insurance under this title for the mortgage. The Secretary may subsequently—

''(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

''(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

''(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

''(D) LOAN SERVICING.—In carrying out this paragraph, the Secretary may require the existing servicer of a mortgage assigned to the Secretary to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage, provided that the Secretary compensates the existing servicer appropriately, as such compensation is determined by the Secretary consistent, to the maximum extent possible, with section 203(b). If the mortgage is resold pursuant to subparagraph (C)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.''.

(4) IMPLEMENTATION.—The Secretary of Housing and Urban Development may implement the amendments made by this subsection through notice or mortgagee letter.

(e) CHANGE OF STATUS.—The National Housing Act is amended by striking section 532 (12 U.S.C. 1735f–10) and inserting the following new section:

''SEC. 532. CHANGE OF MORTGAGEE STATUS.

''(a) NOTIFICATION.—Upon the occurrence of any action described in subsection (b), an approved mortgagee shall immediately submit to the Secretary, in writing, notification of such occurrence.

''(b) ACTIONS.—The actions described in this subsection are as follows:

''(1) The debarment, suspension or a Limited Denial of Participation (LDP), or application of other sanctions, other exclusions, fines, or penalties applied to the mortgagee or to any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the mortgagee pursuant to applicable provisions of State or Federal law.

''(2) The revocation of a State-issued mortgage loan originator license issued pursuant to the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any other similar declaration of ineligibility pursuant to State law.''.

(f) CIVIL MONEY PENALTIES.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting ''or any of its owners, officers, or directors'' after ''mortgagee or lender'';

(ii) in subparagraph (H), by striking ''title I'' and all that follows through ''under this Act.'' and inserting ''title I or II of this Act, or any implementing regulation, handbook, or mortgagee letter that is issued under this Act.''; and

(iii) by inserting after subparagraph (J) the following:

''(K) Violation of section 202(d) of this Act (12 U.S.C. 1708(d)).

''(L) Use of 'Federal Housing Administration', 'Department of Housing and Urban Development', 'Government National Mortgage Association', 'Ginnie Mae', the acronyms 'HUD', 'FHA', or 'GNMA', or any official seal or logo of the Department of Housing and Urban Development, except as authorized by the Secretary.'';

(B) in paragraph (2)—

(i) in subparagraph (B), by striking ''or'' at the end;

(ii) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

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

''(D) causing or participating in any of the violations set forth in paragraph (1) of this subsection.''; and

(C) by amending paragraph (3) to read as follows:

''(3) PROHIBITION AGAINST MISLEADING USE OF FEDERAL ENTITY DESIGNATION.—The Secretary may impose a civil money penalty, as adjusted from time to time, under subsection (a) for any use of 'Federal Housing Administration', 'Department of Housing and Urban Development', 'Government National Mortgage Association', 'Ginnie Mae', the acronyms 'HUD', 'FHA', or 'GNMA', or any official seal or logo of the Department of Housing and Urban Development, by any person, party, company, firm, partnership, or business, including sellers of real estate, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, and dealers, except as authorized by the Secretary.''; and

(2) in subsection (g), by striking ''The term'' and all that follows through the end of the sentence and inserting ''For purposes of this section, a person acts knowingly when a person has actual knowledge of acts or should have known of the acts.''.

(g) EXPANDED REVIEW OF FHA MORTGAGEE APPLICANTS AND NEWLY APPROVED MORTGAGEES.—Not later than the expiration of the 3-month period beginning upon the date of the enactment of this Act, the Secretary of Housing and Urban Development shall—

(1) expand the existing process for reviewing new applicants for approval for participation in the mortgage insurance programs of the Secretary for mortgages on 1- to 4-family residences for the purpose of identifying applicants who represent a high risk to the Mutual Mortgage Insurance Fund; and

(2) implement procedures that, for mortgagees approved during the 12-month period ending upon such date of enactment—

(A) expand the number of mortgages originated by such mortgagees that are reviewed for compliance with applicable laws, regulations, and policies; and

(B) include a process for random reviews of such mortgagees and a process for reviews that is based on volume of mortgages originated by such mortgagees.

SEC. 204. ENHANCEMENT OF LIQUIDITY AND STABILITY OF INSURED DEPOSITORY INSTITUTIONS TO ENSURE AVAILABILITY OF CREDIT AND REDUCTION OF FORECLOSURES.

(a) TEMPORARY INCREASE IN DEPOSIT INSURANCE EXTENDED.—Section 136 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5241) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''December 31, 2009'' and inserting ''December 31, 2013'';

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking ''December 31, 2009'' and inserting ''December 31, 2013''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''December 31, 2009'' and inserting ''December 31, 2013'';

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking ''December 31, 2009'' and inserting ''December 31, 2013''; and

(b) EXTENSION OF RESTORATION PLAN PERIOD.—Section 7(b)(3)(E)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)(E)(ii)) is amended by striking ''5-year period'' and inserting ''8-year period''.

(c) FDIC AND NCUA BORROWING AUTHORITY.—

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

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

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

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

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

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

(D) by adding at the end the following:

''(3) TEMPORARY INCREASES AUTHORIZED.—

''(A) RECOMMENDATIONS FOR INCREASE.—During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the $100,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed $500,000,000,000.

''(B) REPORT REQUIRED.—If the borrowing authority of the Corporation is increased above $100,000,000,000 pursuant to subparagraph (A), the Corporation shall promptly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the reasons and need for the additional borrowing authority and its intended uses.

''(C) RESTRICTION ON USAGE.—The Corporation may not borrow pursuant to subparagraph (A) to fund obligations of the Corporation incurred as a part of a program established by the Secretary of the Treasury pursuant to the Emergency Economic Stabilization Act of 2008 to purchase or guarantee assets.''.

(2) NCUA.—Section 203(d)(1) of the Federal Credit Union Act (12 U.S.C. 1783(d)(1)) is amended to read as follows:

''(1) If, in the judgment of the Board, a loan to the insurance fund, or to the stabilization fund described in section 217 of this title, is required at any time for purposes of this subchapter, the Secretary of the Treasury shall make the loan, but loans under this paragraph shall not exceed in the aggregate $6,000,000,000 outstanding at any one time. Except as otherwise provided in this subsection, section 217, and in subsection (e) of this section, each loan under this paragraph shall be made on such terms as may be fixed by agreement between the Board and the Secretary of the Treasury.''.

(3) TEMPORARY INCREASES OF BORROWING AUTHORITY FOR NCUA.—Section 203(d) of the Federal Credit Union Act (12 U.S.C. 1783(d)) is amended by adding at the end the following:

''(4) TEMPORARY INCREASES AUTHORIZED.—

''(A) RECOMMENDATIONS FOR INCREASE.—During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board (upon a vote of not less than two-thirds of the members of the Board) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the $6,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed $30,000,000,000.

''(B) REPORT REQUIRED.—If the borrowing authority of the Board is increased above $6,000,000,000 pursuant to subparagraph (A), the Board shall promptly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the reasons and need for the additional borrowing authority and its intended uses.''.

(d) EXPANDING SYSTEMIC RISK SPECIAL ASSESSMENTS.—Section 13(c)(4)(G)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended to read as follows:

''(ii) REPAYMENT OF LOSS.—

''(I) IN GENERAL.—The Corporation shall recover the loss to the Deposit Insurance Fund arising from any action taken or assistance provided with respect to an insured depository institution under clause (i) from 1 or more special assessments on insured depository institutions, depository institution holding companies (with the concurrence of the Secretary of the Treasury with respect to holding companies), or both, as the Corporation determines to be appropriate.

''(II) TREATMENT OF DEPOSITORY INSTITUTION HOLDING COMPANIES.—For purposes of this clause, sections 7(c)(2) and 18(h) shall apply to depository institution holding companies as if they were insured depository institutions.

''(III) REGULATIONS.—The Corporation shall prescribe such regulations as it deems necessary to implement this clause. In prescribing such regulations, defining terms, and setting the appropriate assessment rate or rates, the Corporation shall establish rates sufficient to cover the losses incurred as a result of the actions of the Corporation under clause (i) and shall consider: the types of entities that benefit from any action taken or assistance provided under this subparagraph; economic conditions, the effects on the industry, and such other factors as the Corporation deems appropriate and relevant to the action taken or the assistance provided. Any funds so collected that exceed actual losses shall be placed in the Deposit Insurance Fund.''.

(e) ESTABLISHMENT OF A NATIONAL CREDIT UNION SHARE INSURANCE FUND RESTORATION PLAN PERIOD.—Section 202(c)(2) of the Federal Credit Union Act (12 U.S.C. 1782(c)(2)) is amended by adding at the end the following new subparagraph:

''(D) FUND RESTORATION PLANS.—

''(i) IN GENERAL.—Whenever—

''(I) the Board projects that the equity ratio of the Fund will, within 6 months of such determination, fall below the minimum amount specified in subparagraph (C); or

''(II) the equity ratio of the Fund actually falls below the minimum amount specified in subparagraph (C) without any determination under sub-clause (I) having been made, the Board shall establish and implement a restoration plan within 90 days that meets the requirements of clause (ii) and such other conditions as the Board determines to be appropriate.

''(ii) REQUIREMENTS OF RESTORATION PLAN.—A restoration plan meets the requirements of this clause if the plan provides that the equity ratio of the Fund will meet or exceed the minimum amount specified in subparagraph (C) before the end of the 8-year period beginning upon the implementation of the plan (or such longer period as the Board may determine to be necessary due to extraordinary circumstances).

''(iii) TRANSPARENCY.—Not more than 30 days after the Board establishes and implements a restoration plan under clause (i), the Board shall publish in the Federal Register a detailed analysis of the factors considered and the basis for the actions taken with regard to the plan.''.

(f) TEMPORARY CORPORATE CREDIT UNION STABILIZATION FUND.—

(1) ESTABLISHMENT OF STABILIZATION FUND.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section:

''SEC. 217. TEMPORARY CORPORATE CREDIT UNION STABILIZATION FUND.

''(a) ESTABLISHMENT OF STABILIZATION FUND.—There is hereby created in the Treasury of the United States a fund to be known as the 'Temporary Corporate Credit Union Stabilization Fund.' The Board will administer the Stabilization Fund as prescribed by section 209.

''(b) EXPENDITURES FROM STABILIZATION FUND.—Money in the Stabilization Fund shall be available upon requisition by the Board, without fiscal year limitation, for making payments for the purposes described in section 203(a), subject to the following additional limitations:

''(1) All payments other than administrative payments shall be connected to the conservatorship, liquidation, or threatened conservatorship or liquidation, of a corporate credit union.

''(2) Prior to authorizing each payment the Board shall—

''(A) certify that, absent the existence of the Stabilization Fund, the Board would have made the identical payment out of the National Credit Union Share Insurance Fund (Insurance Fund); and

''(B) report each such certification to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

''(c) AUTHORITY TO BORROW.—

''(1) IN GENERAL.—The Stabilization Fund is authorized to borrow from the Secretary of the Treasury from time-to-time as deemed necessary by the Board. The maximum outstanding amount of all borrowings from the Treasury by the Stabilization Fund and the National Credit Union Share Insurance Fund, combined, is limited to the amount provided for in section 203(d)(1), including any authorized increases in that amount.

''(2) REPAYMENT OF ADVANCES.—

''(A) IN GENERAL.—The advances made under this section shall be repaid by the Stabilization Fund, and interest on such advance shall be paid, to the General fund of the Treasury.

''(B) VARIABLE RATE OF INTEREST.—The Secretary of the Treasury shall make the first rate determination at the time of the first advance under this section and shall reset the rate again for all advances on each anniversary of the first advance. The interest rate shall be equal to the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity equal to 12 months.

''(3) REPAYMENT SCHEDULE.—The Stabilization Fund shall repay the advances on a first-in, first-out basis, with interest on the amount repaid, at times and dates determined by the Board at its discretion. All advances shall be repaid not later than the date of the seventh anniversary of the first advance to the Stabilization Fund, unless the Board extends this final repayment date. The Board shall obtain the concurrence of the Secretary of the Treasury on any proposed extension, including the terms and conditions of the extended repayment.

''(d) ASSESSMENT TO REPAY ADVANCES.—At least 90 days prior to each repayment described in subsection (c)(3), the Board shall set the amount of the upcoming repayment and determine if the Stabilization Fund will have sufficient funds to make the repayment. If the Stabilization Fund might not have sufficient funds to make the repayment, the Board shall assess each federally insured credit union a special premium due and payable within 60 days in an aggregate amount calculated to ensure the Stabilization Fund is able to make the repayment. The premium charge for each credit union shall be stated as a percentage of its insured shares as represented on the credit union's previous call report. The percentage shall be identical for each credit union. Any credit union that fails to make timely payment of the special premium is subject to the procedures and penalties described under subsections (d), (e), and (f) of section 202.

''(e) DISTRIBUTIONS FROM INSURANCE FUND.—At the end of any calendar year in which the Stabilization Fund has an outstanding advance from the Treasury, the Insurance Fund is prohibited from making the distribution to insured credit unions described in section 202(c)(3). In lieu of the distribution described in that section, the Insurance Fund shall make a distribution to the Stabilization Fund of the maximum amount possible that does not reduce the Insurance Fund's equity ratio below the normal operating level and does not reduce the Insurance Fund's available assets ratio below 1.0 percent.

''(f) INVESTMENT OF STABILIZATION FUND ASSETS.—The Board may request the Secretary of the Treasury to invest such portion of the Stabilization Fund as is not, in the Board's judgment, required to meet the current needs of the Stabilization Fund. Such investments shall be made by the Secretary of the Treasury in public debt securities, with maturities suitable to the needs of the Stabilization Fund, as determined by the Board, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

''(g) REPORTS.—The Board shall submit an annual report to Congress on the financial condition and the results of the operation of the Stabilization Fund. The report is due to Congress within 30 days after each anniversary of the first advance made under subsection (c)(1). Because the Fund will use advances from the Treasury to meet corporate stabilization costs with full repayment of borrowings to Treasury at the Board's discretion not due until 7 years from the initial advance, to the extent operating expenses of the Fund exceed income, the financial condition of the Fund may reflect a deficit. With planned and required future repayments, the Board shall resolve all deficits prior to termination of the Fund.

''(h) CLOSING OF STABILIZATION FUND.—Within 90 days following the seventh anniversary of the initial Stabilization Fund advance, or earlier at the Board's discretion, the Board shall distribute any funds, property, or other assets remaining in the Stabilization Fund to the Insurance Fund and shall close the Stabilization Fund. If the Board extends the final repayment date as permitted under subsection (c)(3), the mandatory date for closing the Stabilization Fund shall be extended by the same number of days.''.

(2) CONFORMING AMENDMENT.—Section 202(c)(3)(A) of the Federal Credit Union Act (12 U.S.C. 1782(c)(3)(A)) is amended by inserting '', subject to the requirements of section 217(e),'' after ''The Board shall''.

SEC. 205. APPLICATION OF GSE CONFORMING LOAN LIMIT TO MORTGAGES ASSISTED WITH TARP FUNDS.

In making any assistance available to prevent and mitigate foreclosures on residential properties, including any assistance for mortgage modifications, using any amounts made available to the Secretary of the Treasury under title I of the Emergency Economic Stabilization Act of 2008, the Secretary shall provide that the limitation on the maximum original principal obligation of a mortgage that may be modified, refinanced, made, guaranteed, insured, or otherwise assisted, using such amounts shall not be less than the dollar amount limitation on the maximum original principal obligation of a mortgage that may be purchased by the Federal Home Loan Mortgage Corporation that is in effect, at the time that the mortgage is modified, refinanced, made, guaranteed, insured, or otherwise assisted using such amounts, for the area in which the property involved in the transaction is located.

SEC. 206. MORTGAGES ON CERTAIN HOMES ON LEASED LAND.

Section 255(b)(4) of the National Housing Act (12 U.S.C. 1715z–20(b)(4)) is amended by striking subparagraph (B) and inserting:

''(B) under a lease that has a term that ends no earlier than the minimum number of years, as specified by the Secretary, beyond the actuarial life expectancy of the mortgagor or comortgagor, whichever is the later date.''.

SEC. 207. SENSE OF CONGRESS REGARDING MORTGAGE REVENUE BOND PURCHASES.

It is the sense of the Congress that the Secretary of the Treasury should use amounts made available in this Act to purchase mortgage revenue bonds for single-family housing issued through State housing finance agencies and through units of local government and agencies thereof.

TITLE III—MORTGAGE FRAUD TASK FORCE

SEC. 301. SENSE OF CONGRESS ON ESTABLISHMENT OF A NATIONWIDE MORTGAGE FRAUD TASK FORCE.

(a) IN GENERAL.—It is the sense of the Congress that the Department of Justice establish a Nationwide Mortgage Fraud Task Force (hereinafter referred to in this section as the ''Task Force'') to address mortgage fraud in the United States.

(b) SUPPORT.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Attorney General should provide the Task Force with the appropriate staff, administrative support, and other resources necessary to carry out the duties of the Task Force.

(c) MANDATORY FUNCTIONS.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Attorney General should—

(1) establish coordinating entities, and solicit the voluntary participation of Federal, State, and local law enforcement and prosecutorial agencies in such entities, to organize initiatives to address mortgage fraud, including initiatives to enforce State mortgage fraud laws and other related Federal and State laws;

(2) provide training to Federal, State, and local law enforcement and prosecutorial agencies with respect to mortgage fraud, including related Federal and State laws;

(3) collect and disseminate data with respect to mortgage fraud, including Federal, State, and local data relating to mortgage fraud investigations and prosecutions; and

(4) perform other functions determined by the Attorney General to enhance the detection of, prevention of, and response to mortgage fraud in the United States.

(d) OPTIONAL FUNCTIONS.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Task Force should—

(1) initiate and coordinate Federal mortgage fraud investigations and, through the coordinating entities described under subsection (c), State and local mortgage fraud investigations;

(2) establish a toll-free hotline for—

(A) reporting mortgage fraud;

(B) providing the public with access to information and resources with respect to mortgage fraud; and

(C) directing reports of mortgage fraud to the appropriate Federal, State, and local law enforcement and prosecutorial agency, including to the appropriate branch of the Task Force established under subsection (d);

(3) create a database with respect to suspensions and revocations of mortgage industry licenses and certifications to facilitate the sharing of such information by States;

(4) make recommendations with respect to the need for and resources available to provide the equipment and training necessary for the Task Force to combat mortgage fraud; and

(5) propose legislation to Federal, State, and local legislative bodies with respect to the elimination and prevention of mortgage fraud, including measures to address mortgage loan procedures and property appraiser practices that provide opportunities for mortgage fraud.

TITLE IV—FORECLOSURE MORATORIUM PROVISIONS

SEC. 401. SENSE OF THE CONGRESS ON FORECLOSURES.

(a) IN GENERAL.—It is the sense of the Congress that mortgage holders, institutions, and mortgage servicers should not initiate a foreclosure proceeding or a foreclosure sale on any homeowner until the foreclosure mitigation provisions, like the Hope for Homeowners program, as required under title II, and the President's ''Homeowner Affordability and Stability Plan'' have been implemented and determined to be operational by the Secretary of Housing and Urban Development and the Secretary of the Treasury.

(b) SCOPE OF MORATORIUM.—The foreclosure moratorium referred to in subsection (a) should apply only for first mortgages secured by the owner's principal dwelling.

(c) FHA-REGULATED LOAN MODIFICATION AGREEMENTS.—If a mortgage holder, institution, or mortgage servicer to which subsection (a) applies reaches a loan modification agreement with a homeowner under the auspices of the Federal Housing Administration before any plan referred to in such subsection takes effect, subsection (a) shall cease to apply to such institution as of the effective date of the loan modification agreement.

(d) DUTY OF CONSUMER TO MAINTAIN PROPERTY.—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued , or consummated with respect to

any homeowner mortgage should not, with respect to any property securing such mortgage, destroy, damage, or impair such property, allow the property to deteriorate, or commit waste on the property.

(e) DUTY OF CONSUMER TO RESPOND TO REASONABLE INQUIRIES.—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage should respond to reasonable inquiries from a creditor or servicer during the period during which such foreclosure proceeding or sale is barred.

SA 1019. Mr. CORKER submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; as follows:

On page 17, strike line 1 and all that follows through page 18, line 4 and insert the following:

''(1) to the extent that the servicer owes a duty to investors or other parties to maximize the net present value of such mortgages, the duty shall be construed to apply to all such investors or group of investors; and

''(2) the servicer shall be deemed to have satisfied the duty set forth in paragraph (1) if, before December 31, 2012, the servicer implements a qualified loss mitigation plan that meets the following criteria:

''(A) Default on the payment of such mortgage has occurred, is imminent, or is reasonably foreseeable, as such terms are defined by guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008.

''(B) The mortgagor occupies the property securing the mortgage as his or her principal residence.

''(C) The servicer reasonably determined, in good faith, consistent with the guidelines issued by the Secretary of the Treasury or his designee, that the application of such qualified loss mitigation plan to a mortgage or class of mortgages will likely provide an anticipated recovery on the outstanding principal mortgage debt that will exceed the anticipated recovery through foreclosures or other resolution.

SA 1020. Mr. GRASSLEY (for himself, Mr. BAUCUS, and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE V—ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM

SEC. 501. ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM.

Section 116 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5226) is amended—

(1) in subsection (a)(1)(A)—

(A) in clause (iii), by striking ''and'' at the end;

(B) in clause (iv), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(v) public accountability for the exercise of such authority, including with respect to actions taken by those entities participating in programs established under this Act.''; and

(2) in subsection (a)(2)—

(A) by redesignating subparagraph (C) as subparagraph (E); and

(B) by striking subparagraph (B) and inserting the following:

''(B) ACCESS TO RECORDS.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, and for purposes of reviewing the performance of the TARP, the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the TARP, any entity established by the Secretary under this Act, or any entity participating in a program established under the authority of this Act, and to the officers, employees, directors, independent public accountants, financial advisors and any and all other agents and representatives thereof, at such time as the Comptroller General may request.

''(ii) VERIFICATION.—The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by, among others, depositories, fiscal agents, and custodians.

''(iii) COPIES.—The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General deems appropriate.

''(C) AGREEMENT BY ENTITIES.—Each contract, term sheet, or other agreement between the Secretary or the TARP (or any TARP vehicle, officer, director, employee, independent public accountant, financial advisor, or other TARP agent or representative) and an entity participating in a program established under this Act shall provide for access by the Comptroller General in accordance with this section.

''(D) RESTRICTION ON PUBLIC DISCLOSURE.—

''(i) IN GENERAL.—The Comptroller General may not publicly disclose proprietary or trade secret information obtained under this section.

''(ii) EXCEPTION FOR CONGRESSIONAL COMMITTEES.—This subparagraph does not limit disclosures to congressional committees or members thereof having jurisdiction over any private or public entity participating in a program established under this Act.

''(iii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or amend the prohibitions against the disclosure of trade secrets or other information prohibited by section 1905 of title 18, United States Code, or other applicable provisions of law.''.

SA 1021. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

TITLE ____—COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES

SEC. _____. COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES.

(a) DEFINITION OF AGENCY.—Section 714(a) of title 31, United States Code, is amended by striking ''Federal Reserve Board,'' and inserting ''Board of Governors of the Federal Reserve System (in this section referred to as the 'Board'), the Federal Open Market Committee, the Federal Advisory Council,''.

(b) AUDITS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM AND THE FEDERAL RESERVE BANKS.—Section 714(b) of title 31, United States Code, is amended by striking the second sentence.

(c) CONFIDENTIAL INFORMATION.—Section 714(c) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

''(2)(A) Except as provided under paragraph (4), an officer or employee of the Government Accountability Office may not provide to any person outside the Government Accountability Office any document or name described under subparagraph (B) if that document or name is maintained as confidential by the Board, the Federal Open Market Committee, the Federal Advisory Council, or any Federal reserve bank.

''(B) The documents and names referred to under subparagraph (A) are—

''(i) any document relating to—

''(I) transactions for or with a foreign central bank, government of a foreign country, or nonprivate international financing organization;

''(II) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations; or

''(III) transactions made under the direction of the Federal Open Market Committee; or

''(ii) the name of any foreign central bank, government of a foreign country, or non-private international financing organization associated with a transaction described under clause (i)(I).''; and

(3) by striking paragraph (4) (as redesignated by this subsection) and inserting the following:

''(4) This subsection shall not—

''(A) authorize an officer or employee of an agency to withhold information from any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee; or

''(B) limit any disclosure by the Government Accountability Office to any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee.''.

(d) ACCESS TO RECORDS.—

(1) ACCESS TO RECORDS.—Section 714(d)(1) of title 31, United States Code, is amended—

(A) in the first sentence, by inserting ''or any entity established by an agency'' after ''an agency''; and

(B) by inserting ''The Comptroller General shall have access to the officers, employees, contractors, and other agents and representatives of an agency or any entity established by an agency at any reasonable time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.'' after the first sentence.

(2) UNAUTHORIZED ACCESS.—Section 714(d)(2) of title 31, United States Code, is amended by inserting '', copies of any record,'' after ''records''.

(e) AVAILABILITY OF DRAFT REPORTS FOR COMMENT.—Section 718(a) of title 31, United States Code, is amended by striking ''Federal Reserve Board,'' and inserting ''Board of Governors of the Federal Reserve System, the Federal Open Market Committee, the Federal Advisory Council,''.

SA 1022. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of title I of the amendment, add the following:

SEC. 105. NEIGHBORHOOD STABILIZATION PROGRAM REFINEMENTS.

(a) IN GENERAL.—Section 2301(c) of the Foreclosure Prevention Act of 2008 (42 U.S.C. 5301 note) is amended by adding at the end the following:

''(4) FORECLOSURE PREVENTION.—For any amounts appropriated under the heading 'Community Development Fund' of title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 217), each State and unit of general local government that receives an allocation of any such amounts pursuant to section 2302 may use up to 10 percent of such amounts for foreclosure prevention programs, activities, and services, as such programs, activities, and services are defined by the Secretary, provided that the State or unit of general local government discloses, in its application for such amounts, its intentions to use such amounts for such foreclosure prevention purposes.''.

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on the date of enactment of the American Recovery and Reinvestment Act of 2009.

SA 1023. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of title I of the amendment, add the following:

SEC. 105. WARNINGS TO HOMEOWNERS OF FINANCIAL SCAMS.

(a) IN GENERAL.—If a loan servicer finds that a homeowner has failed to make 2 consecutive payments on a residential mortgage loan and such loan is at risk of being foreclosed upon, the loan servicer shall notify such homeowner of the dangers of fraudulent activities associated with foreclosure.

(b) NOTICE REQUIREMENTS.—Each notice provided under subsection (a) shall—

(1) be in writing;

(2) be included with a mailing of account information;

(3) have the heading ''Notice Required by Federal Law'' in a 14-point boldface type in English and Spanish at the top of such notice; and

(4) contain the following statement in English and Spanish: ''Mortgage foreclosure is a complex process. Some people may approach you about saving your home. You should be careful about any such promises. There are government and nonprofit agencies you may contact for helpful information about the foreclosure process. Contact your lender immediately at [_____], call the Department of Housing and Urban Development Housing Counseling Line at (800) 569–4287 to find a housing counseling agency certified by the Department to assist you in avoiding foreclosure, or visit the Department's Tips for Avoiding Foreclosure website at http://www.hud.gov/foreclosure for additional assistance.'' (the blank space to be filled in by the loan servicer and successor telephone numbers and Uniform Resource Locators (URLs) for the Department of Housing and Urban Development Housing Counseling Line and Tips for Avoiding Foreclosure website, respectively.).

(c) LOAN SERVICER.—As used in this section, the term ''loan servicer'' has the same meaning as the term ''servicer'' in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).

(d) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A failure to comply with any provision of this section shall be treated as a violation of a rule defining an unfair or deceptive act or practice promulgated under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) ACTIONS BY THE FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall enforce the provisions of this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section.

SA 1024. Mr. KERRY (for himself, Mrs. BOXER, Mrs. GILLIBRAND, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

TITLE V—PROTECTING TENANTS AT FORECLOSURE ACT

SEC. 501. SHORT TITLE.

This title may be cited as the ''Protecting Tenants at Foreclosure Act of 2009''.

SEC. 502. EFFECT OF FORECLOSURE ON PREEXISTING TENANCY.

(a) IN GENERAL.—In the case of any foreclosure on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—

(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and

(2) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or

(B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1),

except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

(b) BONA FIDE LEASE OR TENANCY.—For purposes of this section, a lease or tenancy shall be considered bona fide only if—

(1) the mortgagor under the contract is not the tenant;

(2) the lease or tenancy was the result of an arms-length transaction; or

(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

SEC. 503. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

(1) by inserting before the semi-colon in subparagraph (C) the following: ''and in the case of an owner who is an immediate successor in interest pursuant to foreclosure—

''(i) during the initial term of the lease vacating the property prior to sale shall not constitute other good cause; and

''(ii) in subsequent lease terms, vacating the property prior to sale may constitute good cause if the property is unmarketable while occupied, or if such owner will occupy the unit as a primary residence''; and

(2) by inserting at the end of subparagraph (F) the following: ''In the case of any foreclosure on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants.''.

SA 1025. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

TITLE V—TARP REDUCTION PRIORITY ACT

SEC. 501. SHORT TITLE.

This title may be cited as the ''TARP Reduction Priority Act''.

SEC. 502. FINDINGS.

Congress finds the following:

(1) On October 7, 2008, Congress established the Troubled Assets Relief Program (TARP) as part of the Emergency Economic Stabilization Act (Public 110-343; 122 Stat. 3765) and allocated $700,000,000,000 for the purchase of toxic assets from banks with the goal of restoring liquidity to the financial sector and restarting the flow of credit in our markets.

(2) The Department of Treasury, without consultation with Congress, changed the purpose of TARP and began injecting capital into financial institutions through a program called the Capital Purchase Program (CPP) rather than purchasing toxic assets.

(3) Lending by financial institutions was not noticeably increased with the implementation of the CPP and the expenditure of $218,000,000,000 of TARP funds, despite the goal of the program.

(4) The recipients of amounts under the CPP are now faced with additional restrictions related to accepting those funds.

(5) A number of community banks and large financial institutions have expressed their desire to return their CPP funds to the Department of Treasury and the Department has begun the process of accepting receipt of such funds.

(6) The Department of the Treasury should not reuse returned funds for additional lending for financial assistance.

(7) The United States Constitution provided Congress with the power of the purse hence any future spending of TARP funds, or other financial assistance, should be determined by Congress.

SEC. 503. TARP AUTHORIZATION REDUCTION.

Section 115(a)(3) the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by inserting ''minus any aggregate amounts received by the Secretary for repayment of the principal of financial assistance by an entity that has received financial assistance under the TARP or any

program enacted by the Secretary under the authorities granted to the Secretary under this Act,'' before ''outstanding at any one time.''

SA 1026. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON USE OF TARP FUNDS.

Notwithstanding any other provision of law, on and after April 22, 2009, no funds made available to carry out the Troubled Asset Relief Program may be used for the acquisition of ownership of the common stock of any financial institution assisted under title I of the Emergency Economic Stabilization Act of 2008, either directly or through a conversion of preferred stock or future direct capital purchases.

SA 1027. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end, insert the following:

TITLE V—TAX PROVISIONS

SEC. 501. CREDIT FOR CERTAIN HOME PURCHASES.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25D the following new section:

''SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual who is a purchaser of a principal residence during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the residence.

''(2) DOLLAR LIMITATION.—The amount of the credit allowed under paragraph (1) shall not exceed $15,000.

''(3) ALLOCATION OF CREDIT AMOUNT.—At the election of the taxpayer, the amount of the credit allowed under paragraph (1) (after application of paragraph (2)) may be equally divided among the 2 taxable years beginning with the taxable year in which the purchase of the principal residence is made.

''(b) LIMITATIONS.—

''(1) DATE OF PURCHASE.—The credit allowed under subsection (a) shall be allowed only with respect to purchases made—

''(A) after March 30, 2009, and

''(B) before April 1, 2010.

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

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

''(B) the sum of the credits allowable under this subpart (other than this section) for the taxable year.

''(3) ONE-TIME ONLY.—

''(A) IN GENERAL.—If a credit is allowed under this section in the case of any individual (and such individual's spouse, if married) with respect to the purchase of any principal residence, no credit shall be allowed under this section in any taxable year with respect to the purchase of any other principal residence by such individual or a spouse of such individual.

''(B) JOINT PURCHASE.—In the case of a purchase of a principal residence by 2 or more unmarried individuals or by 2 married individuals filing separately, no credit shall be allowed under this section if a credit under this section has been allowed to any of such individuals in any taxable year with respect to the purchase of any other principal residence.

''(c) PRINCIPAL RESIDENCE.—For purposes of this section, the term 'principal residence' has the same meaning as when used in section 121.

''(d) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any purchase for which a credit is allowed under section 36 or section 1400C.

''(e) SPECIAL RULES.—

''(1) JOINT PURCHASE.—

''(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of 2 married individuals filing separately, subsection (a) shall be applied to each such individual by substituting '$7,500' for '$15,000' in subsection (a)(1).

''(B) UNMARRIED INDIVIDUALS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $15,000.

''(2) PURCHASE.—In defining the purchase of a principal residence, rules similar to the rules of paragraphs (2) and (3) of section 1400C(e) (as in effect on the date of the enactment of this section) shall apply.

''(3) REPORTING REQUIREMENT.—Rules similar to the rules of section 1400C(f) (as so in effect) shall apply.

''(f) RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.—

''(1) IN GENERAL.—In the event that a taxpayer—

''(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

''(B) fails to occupy such residence as the taxpayer's principal residence,

at any time within 24 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

''(2) EXCEPTIONS.—

''(A) DEATH OF TAXPAYER.—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer's death.

''(B) INVOLUNTARY CONVERSION.—Paragraph (1) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 24-month period described in such paragraph as if such new principal residence were the converted residence.

''(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

''(i) paragraph (1) shall not apply to such transfer, and

''(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

''(D) RELOCATION OF MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

''(3) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

''(4) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

''(h) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence after December 31, 2009, and before April 1, 2010, a taxpayer may elect to treat such purchase as made on December 31, 2009, for purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B) of the Internal Revenue Code of 1986 is amended by striking ''and 25B'' and inserting '', 25B, and 25E''.

(2) Section 25(e)(1)(C)(ii) of such Code is amended by inserting ''25E,'' after ''25D,''.

(3) Section 25B(g)(2) of such Code is amended by striking ''section 23'' and inserting ''sections 23 and 25E''.

(4) Section 904(i) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

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

''(38) to the extent provided in section 25E(g).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for certain home purchases.''.

(d) SUNSET OF CURRENT FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (h) of section 36 of the Internal Revenue Code of 1986 is amended by striking ''December 1, 2009'' and inserting ''April 1, 2009''.

(2) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 of such Code is amended by striking ''December 1, 2009'' and inserting ''April 1, 2009''.

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

SA 1028. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____ PROHIBITION ON STEERING.

(a) IN GENERAL.—The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 129 the following new section:

"SEC. 129A. PROHIBITION ON STEERING WITH RESPECT TO HOME MORTGAGE LOANS.

''(a) IN GENERAL.—In connection with a home mortgage loan, a mortgage broker or creditor may not—

''(1) steer, counsel, or direct a consumer to rates, charges, principal amount, or prepayment terms that are more expensive for that which the consumer qualifies; or

''(2) make, provide, or arrange for any consumer credit transaction secured by a consumer's principal dwelling that is more expensive than that for which the consumer qualifies.

''(b) DUTIES TO CONSUMERS.—If unable to suggest, offer, or recommend to a consumer a home loan that is not more expensive than that for which the consumer qualifies, a mortgage originator shall—

''(1) based on the information reasonably available and using the skill, care, and diligence reasonably expected for a mortgage originator, originate or otherwise facilitate a suitable home mortgage loan by another creditor to a consumer, if permitted by and in accordance with all otherwise applicable law; or

''(2) disclose to a consumer—

''(A) that the creditor does not offer a home mortgage loan that is not more expensive than a loan for which the consumer qualifies, but that other creditors may offer such a loan; and

''(B) the reasons that the products and services offered by the mortgage originator are not available to or reasonably advantageous for the consumer.

''(c) PROHIBITED CONDUCT.—In connection with a home mortgage loan, a mortgage originator may not—

''(1) mischaracterize the credit history of a consumer or the home loans available to a consumer;

''(2) mischaracterize or suborn the mischaracterization of the appraised value of the property securing the extension of credit; and

''(3) if unable to suggest, offer, or recommend to a consumer a loan that is not more expensive than a loan for which the consumer qualifies, discourage a consumer from seeking a home mortgage loan from another creditor or with another mortgage originator.

''(d) MORTGAGE BROKER DEFINED.—For purposes of this section, the term 'mortgage broker' means any person who is defined as a mortgage broker under applicable State law.''.

(b) CLERICAL AMENDMENT.—The table of sections for the Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after the item relating to section 129 the following new item:

''Sec. 129A. Prohibition on steering with respect to home mortgage loans.''.

SA 1029. Mr. SCHUMER submitted an amendment intended to be proposed by him to the resolution S. Res. 93, a bill supporting the mission and goals of 2009 National Crime Victim's Rights Week, to increase public awareness of the rights, needs, and concerns of victims and survivors of crime in the United States, and to commemorate the 25th anniversary of the enactment of the Victims of Crime Act of 1984; as follows:

Strike all after the resolving clause and insert the following:

That the Senate—

(1) supports the mission and goals of 2009 National Crime Victims' Rights Week to increase public awareness of the impact of crime on victims and survivors, and of the constitutional and statutory rights and needs of victims; and

(2) recognizes the 25th anniversary of the enactment of the Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.).

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, May 7, 2009, at 10:00 a.m., in room SD–366 of the Dirksen Senate office building.

The purpose of the hearing is to receive testimony on a Joint Staff draft related to cybersecurity and critical electricity infrastructure.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, US Senate, Washington, DC 20510–6150, or by e-mail to Gina_Weinstock@energy.senate.gov.

For further information, please contact Leon Lowery at (202) 224–2209 or Gina Weinstock at (202) 224–5684.

SUBCOMMITTEE ON ENERGY

Mr. BINGAMAN. Mr. President, this is to advise you that a hearing has been scheduled before the Subcommittee on Energy of the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, May 7, 2009, at 2:30 p.m., in room SD–366 of the Dirksen Senate office building.

The purpose of the hearing is to receive testimony on net metering, interconnection standards, and other policies that promote the deployment of distributed generation to improve grid reliability, increase clean energy deployment, enable consumer choice, and diversify our Nation's energy supply.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, US Senate, Washington, DC 20510–6150, or by email to rachel_pasternack@energy.senate.gov.

For further information, please contact Alicia Jackson at (202) 224–3607 or Rachel Pasternack at (202) 224–0883.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 30, 2009, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. Dodd. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, April 30, 2009, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, April 30, 2009, at 10 a.m., in room 215 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 30, 2009, at 2:30 p.m., to hold a hearing entitled ''Confronting Piracy off the Somali Coast.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled ''Primary Health Care Access Reform: Community Health Centers and the National Health Service Corps'' on Thursday, April 30, 2009. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Thursday, April 30, 2009, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, April 30, 2009 at 9:30 a.m. in Room 628 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 30, 2009 at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND

Mr DODD. Mr. President, I ask unanimous consent that the Subcommittee

on Airland of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 30, 2009, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND REFUGEES

Mr. DODD. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Immigration, Border Security, and Refugees, be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Comprehensive Immigration Reform in 2009, Can We Do It and How?'' on Thursday, April 30, 2009, at 2 p.m., in room SD–226 of the Dirksen Senate office building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA.

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on Thursday, April 30, 2009, at 2:30 p.m. to conduct a hearing entitled, ''National Security Reform: Implementing a National Security Service Workforce.''

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Jamie Corey and Joel Carron of my staff be granted floor privileges for the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent that members of my staff, Deborah Katz, Amy Widestrom, Matthew Green, Ella Humphry, and James Bair be granted the privilege of the floor for the duration of the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AFGHANISTAN INSPECTOR GENERAL PERSONNEL ACT

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 53, S. 615.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 615) to provide additional personnel authorities for the Special Inspector General for Afghanistan Reconstruction.

There being no objection, the Senate proceeded to consider the bill.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 615) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 615

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

SECTION 1. ADDITIONAL PERSONNEL AUTHORITIES FOR THE SPECIAL INSPECTOR GENERAL FOR AFGHANISTAN RECONSTRUCTION.

Section 1229(h) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 381) is amended by striking paragraph (1) and inserting the following:

''(1) PERSONNEL.—

''(A) IN GENERAL.—The Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

''(B) ADDITIONAL AUTHORITIES.—

''(i) IN GENERAL.—Subject to clause (ii), the Inspector General may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of that section).

''(ii) PERIODS OF APPOINTMENTS.—In exercising the employment authorities under subsection (b) of section 3161 of title 5, United States Code, as provided under clause (i) of this subparagraph—

''(I) paragraph (2) of that subsection (relating to periods of appointments) shall not apply; and

''(II) no period of appointment may exceed the date on which the Office of the Special Inspector General for Afghanistan Reconstruction terminates under subsection (o).''.

NATIONAL SEXUAL ASSAULT AWARENESS AND PREVENTION MONTH

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res. 104, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 104) supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statement relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 104) was agreed to.

The preamble was agreed to.

2009 NATIONAL CRIME VICTIM'S RIGHTS WEEK

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 93, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 93) supporting the mission and goals of 2009 National Crime Victim's Rights Week, to increase public awareness of the rights, needs, and concerns of victims and survivors of crime in the United States, and to commemorate the 25th anniversary of the enactment of the Victims of Crime Act of 1984.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCHUMER. Mr. President, I ask unanimous consent that a Schumer amendment to the resolution be agreed to, the resolution, as amended, be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1029) was agreed to, as follows:

(Purpose: To amend the resolving clause)

Strike all after the resolving clause and insert the following:

That the Senate—

(1) supports the mission and goals of 2009 National Crime Victims' Rights Week to increase public awareness of the impact of crime on victims and survivors, and of the constitutional and statutory rights and needs of victims; and

(2) recognizes the 25th anniversary of the enactment of the Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.).

The resolution (S. Res. 93), as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

(The resolution will be printed in a future edition of the RECORD.)

DESIGNATING APRIL 30, 2009, AS DÍA DE LOS NIÑOS: CELEBRATING YOUNG AMERICANS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 122, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 122) designating April 30, 2009, as ''Día de los Niños: Celebrating Young Americans,'' and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 122) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 122

Whereas many nations throughout the world, and especially within the Western hemisphere, celebrate ''Día de los Niños'', or ''Day of the Children'', on the 30th of April, in recognition and celebration of their country's future—their children;

Whereas children represent the hopes and dreams of the people of the United States and are the center of American families;

Whereas children should be nurtured and invested in to preserve and enhance economic prosperity, democracy, and the American spirit;

Whereas according to the latest Census report, there are more than 44,000,000 individuals of Hispanic descent living in the United States, nearly 15,000,000 of whom are children;

Whereas Hispanics in the United States, the youngest and fastest growing ethnic community in the Nation, continue the tradition of honoring their children on Día de los Niños, and wish to share this custom with the rest of the Nation;

Whereas the primary teachers of family values, morality, and culture are parents and family members, and we rely on children to pass on these family values, morals, and culture to future generations;

Whereas the importance of literacy and education are most often communicated to children through family members;

Whereas families should be encouraged to engage in family and community activities that include extended and elderly family members and that encourage children to explore and develop confidence;

Whereas the designation of a day to honor the children of the United States will help affirm for the people of the United States the significance of family, education, and community;

Whereas the designation of a day of special recognition for the children of the United States will provide an opportunity for children to reflect on their future, to articulate their aspirations, and to find comfort and security in the support of their family members and communities;

Whereas the National Latino Children's Institute, serving as a voice for children, has worked with cities throughout the Nation to declare April 30 as ''Día de los Niños: Celebrating Young Americans'', a day to bring together Hispanics and other communities nationwide to celebrate and uplift children; and

Whereas the children of a nation are the responsibility of all its people, and people should be encouraged to celebrate the gifts of children to society: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 30, 2009, as ''Día de los Niños: Celebrating Young Americans''; and

(2) calls on the people of the United States to join with all children, families, organizations, communities, churches, cities, and States across the Nation to observe the day with appropriate ceremonies, including activities that—

(A) center around children, and are free or minimal in cost so as to encourage and facilitate the participation of all our people;

(B) are positive and uplifting and that help children express their hopes and dreams;

(C) provide opportunities for children of all backgrounds to learn about one another's cultures and to share ideas;

(D) include all members of the family, especially extended and elderly family members, so as to promote greater communication among the generations within a family, enabling children to appreciate and benefit from the experiences and wisdom of their elderly family members;

(E) provide opportunities for families within a community to get acquainted; and

(F) provide children with the support they need to develop skills and confidence, and to find the inner strength and the will and fire of the human spirit to make their dreams come true.

VIETNAMESE REFUGEES DAY

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 123, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 123) expressing support for designation of May 2, 2009, as ''Vietnamese Refugees Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 123) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 123

Whereas the Library of Congress' Asian Division together with many Vietnamese-American organizations across the United States will sponsor a ''Journey to Freedom: A Boat People Retrospective'' symposium on May 2, 2009;

Whereas Vietnamese refugees were asylum-seekers from Communist-controlled Vietnam;

Whereas many Vietnamese escaped in boats during the late 1970s, after the Vietnam War and by land across the Cambodian, Laotian, and Thai borders into refugee camps in Thailand;

Whereas over 2,000,000 Vietnamese boat people and other refugees are now spread across the world, in the United States, Australia, Canada, France, England, Germany, China, Japan, Hong Kong, South Korea, the Philippines, and other nations;

Whereas over half of all overseas Vietnamese are Vietnamese-Americans, and Vietnamese-Americans are the fourth-largest Asian American group in the United States;

Whereas, as of 2006, 72 percent of Vietnamese-Americans were naturalized United States citizens, the highest rate among all Asian groups;

Whereas Vietnamese-Americans have made significant contributions to the rich culture and economic prosperity of the United States;

Whereas Vietnamese-Americans have distinguished themselves in the fields of literature, the arts, science, and athletics, and include actors and actresses, physicists, an astronaut, and Olympic athletes; and

Whereas May 2, 2009, would be an appropriate day to designate as ''Vietnamese Refugees Day'': Now, therefore, be it

Resolved, That the Senate supports the designation of ''Vietnamese Refugees Day'' in order to commemorate the arrival of Vietnamese refugees in the United States, to document their harrowing experiences, and subsequent achievements in their new homeland, to honor the host countries that welcomed the boat people, and to recognize the voluntary agencies and nongovernmental organizations that facilitated their resettlement, adjustment, and assimilation into mainstream society in the United States.

WORLD PRESS FREEDOM DAY

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 124, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 124) recognizing the threats to press freedom and expression around the world and reaffirming press freedom as a priority in the efforts of the United States to promote democracy and good governance, on the occasion of World Press Freedom Day on May 3, 2009.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEAHY. Mr. President, on May 3, people from across the country and around the world will celebrate World Press Freedom Day—a time to commemorate and honor the principles of freedom of expression. Established by the United Nations General Assembly in 1993, World Press Freedom Day provides an important opportunity for us all to remember the journalists and other members of the news media—of all nationalities—who have sacrificed their personal safety, and in some cases their lives, to ensure the free flow of information to the public.

Charles Caleb Colton said that ''Despotism can no more exist in a nation until the liberty of the press be destroyed, than night can happen before the sun is set.'' According to the International Federation of Journalists, at least 109 journalists and other members of the media have been killed in the line of duty during 2008. Countless others have been arrested and/or detained simply for performing their professional duties. Our Founders prized and protected freedom of the press in our national charter, the Constitution.

Courageous American journalists have documented volatile turning points in our history—and the world's history—and some have suffered or even died for their efforts, beginning with America's first martyr to press freedom, Elijah Lovejoy.

Recently, we witnessed the troubling case of Iranian-American journalist Roxana Saberi, who was arrested by Iranian authorities in January for buying a bottle of wine and was later tried behind closed doors and detained on absurd and unfounded charges of espionage. Two other American journalists—Laura Ling and Euna Lee—were detained by North Korean officials last month, while working on a story about the plight of female Chinese refugees living along the Chinese border. These troubling events are just two examples of the growing threat facing journalists around the world.

Preserving press freedoms and freedom of expression is one of my highest priorities as Chairman of the Judiciary Committee. That is why I am pleased to join Senators FEINGOLD, KAUFMAN and LUGAR in cosponsoring a resolution in honor of World Press Freedom Day.

Next week, the Judiciary Committee will consider legislation that I introduced and that is cosponsored by Senators KENNEDY, SPECTER, FEINGOLD, WHITEHOUSE, MCCASKILL and TESTER to roll back the government's excessive use of the state secrets privilege to shield government information. The State Secrets Protection Act, S. 417, will help guide the Federal courts to balance the government's legitimate interests in protecting national security, with accountability and the rights of citizens to obtain government information and seek judicial redress.

The committee also has on its agenda long-overdue legislation to establish a qualified privilege for journalists to protect the confidentiality of their sources and the public's right to know—the Free Flow of Information Act, S. 448 and H.R. 985. Last year, the Senate Judiciary Committee favorably reported a similar measure that I cosponsored with Senators LUGAR, DODD, SPECTER, SCHUMER, and GRAHAM, with a strong, bipartisan 15 to 4 vote.

I am very pleased that President Obama has stated his support of Federal shield legislation, and that Attorney General Eric Holder has also expressed his support of a carefully crafted federal shield law. At my request, the Obama administration is working closely with the committee to help reach consensus on a meaningful Federal shield bill that we can enact this year.

As we celebrate World Press Freedom Day, we are reminded that an open and accountable society comes with the duty of its citizens to seek out the truth and to empower themselves with that knowledge. All of us—whether Republican, Democrat or Independent—have an interest in preserving press freedoms and protecting the public's right to know. Enacting the State Secrets Protection Act and the Free Flow of Information Act will send a powerful signal to the entire world about this Nation's commitment to freedom of expression. For this reason, I strongly encourage all Members to join me in supporting the resolution in honor of World Press Freedom Day and in supporting these very important bills.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 124) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 124

Whereas, in 1993, the United Nations General Assembly proclaimed May 3 of each year as ''World Press Freedom Day'' to celebrate the fundamental principles of press freedom, to evaluate the state of press freedom around the world, to defend the media from attacks on the independence of the media, and to pay tribute to journalists who have lost their lives in the line of duty;

Whereas, according to the International Federation of Journalists, at least 109 journalists and other media workers were killed in 2008 while on assignment;

Whereas, according to the Committee to Protect Journalists, nearly 3 out of 4 journalists killed in the line of duty are murdered, and the killers go unpunished in nearly 9 of 10 cases;

Whereas, according to estimates by Reporters Without Borders, in 2008, 673 journalists were arrested, 929 journalists were physically attacked or threatened, and 29 journalists were kidnapped;

Whereas Freedom House reported that press freedom has been declining during recent years in both authoritarian countries and established democracies;

Whereas, reflecting the rise in influence of Internet reporting, an increasing number of online editors, bloggers, and web-based reporters are being imprisoned and their websites closed; and

Whereas press freedom is a key component of democratic governance and socio-economic development and enhances public accountability, transparency and participation: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the threats to press freedom and expression around the world, on the occasion of World Press Freedom Day on May 3, 2009;

(2) commends journalists around the world for the essential role they play in promoting government accountability and strengthening civil society, despite numerous threats;

(3) pays tribute to the journalists who have lost their lives in the line of duty;

(4) condemns all actions around the world that suppress press freedom;

(5) reaffirms the centrality of press freedom to efforts by the United States to support democracy, mitigate conflict, and promote good governance around the world; and

(6) calls on the President and the Secretary of State to develop means by which the United States Government can more rapidly identify, publicize, and respond to threats against press freedom around the world.

ORDERS FOR FRIDAY, MAY 1, 2009

Mr. SCHUMER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Friday, May 1; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that the Senate resume consideration of S. 896, the Helping Families Save Their Homes Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SCHUMER. Mr. President, tomorrow we hope to get to a finite list of amendments on the bill so we can complete action on the legislation early next week.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SCHUMER. If there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order.

There being no objection, the Senate, at 7:15 p.m., adjourned until Friday, May 1, 2009, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate:

DEPARTMENT OF DEFENSE

CHARLES A. BLANCHARD, OF ARIZONA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE AIR FORCE, VICE MARY L. WALKER, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate, Thursday, April 30, 2009:

DEPARTMENT OF THE INTERIOR

THOMAS L. STRICKLAND, OF COLORADO, TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.