

S. 908

At the request of Mr. BAYH, the names of the Senator from Maine (Ms. SNOWE), the Senator from Washington (Ms. CANTWELL) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors 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.

S. 909

At the request of Mr. KENNEDY, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 909, a bill to provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes, and for other purposes.

S. CON. RES. 19

At the request of Mrs. BOXER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Con. Res. 19, a concurrent resolution expressing the sense of Congress that the Shi'ite Personal Status Law in Afghanistan violates the fundamental human rights of women and should be repealed.

S. RES. 76

At the request of Ms. CANTWELL, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. Res. 76, a resolution expressing the sense of the Senate that the United States and the People's Republic of China should work together to reduce or eliminate tariff and nontariff barriers to trade in clean energy and environmental goods and services.

S. RES. 125

At the request of Mr. LAUTENBERG, the names of the Senator from Illinois (Mr. BURRIS), the Senator from Connecticut (Mr. DODD), the Senator from New York (Mrs. GILLIBRAND) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 125, a resolution in support and recognition of National Train Day, May 9, 2009.

AMENDMENT NO. 1030

At the request of Mr. THUNE, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of amendment No. 1030 intended to be proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

AMENDMENT NO. 1033

At the request of Mr. CASEY, the names of the Senator from Ohio (Mr. BROWN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 1033 intended to be proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

AMENDMENT NO. 1036

At the request of Mr. KERRY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 1036 intended to be proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

AMENDMENT NO. 1038

At the request of Mrs. BOXER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 1038 intended to be proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

AMENDMENT NO. 1040

At the request of Mr. REED, the names of the Senator from California (Mrs. BOXER), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New York (Mr. SCHUMER), the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Illinois (Mr. DURBIN) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of amendment No. 1040 intended to be proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 961. A bill to authorize the regulation of credit default swaps and other swap agreements, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. LEVIN. Mr. President, I am introducing legislation today, along with Senator COLLINS, to strengthen the transparency, accountability, and stability of a key aspect of our nation's financial system. Right now, trillions of dollars in complex financial transactions known as swap agreements are being marketed, traded, and implemented by financial institutions operating in the U.S. without adequate oversight or regulation.

Swaps are typically an agreement between two parties placing a bet on future cash flows. Some swaps bet on whether a stock price, interest rate, commodity price, or currency value will rise or fall; others bet on whether a company will default on payment of a bond. Stock price bets are referred to as equity swaps; bets on whether companies will be unable to pay their debts are referred to as credit default swaps.

As of June 2008, according to data compiled by the Bank of International Settlements, worldwide swaps markets included credit default swaps with a total notional value of \$57 trillion; commodity swaps with a notional value of \$13 trillion; equity swaps with a notional value of \$10 trillion; foreign currency swaps with a notional value of \$62 trillion; and interest rate swaps with a notional value of \$458 trillion. These multi-trillion-dollar swap transactions are going on full bore, without appropriate U.S. disclosure requirements, clearing requirements, capital or liquidity safeguards, or other measures to protect the U.S. financial system against systemic risk.

Why? Because current law prohibits key Federal financial regulators—in-

cluding the Securities and Exchange Commission, SEC, and the Commodities Futures Trading Commission, CFTC—from exercising oversight or issuing regulations to ensure the safety and soundness of swap transactions. That prohibition has been in place for nearly 10 years now, since the year 2000; it has never made any sense; it helped cause the financial crisis that is engulfing the American economy; and it ought to be eliminated immediately.

The bill we are introducing today, the Authorizing the Regulation of Swaps Act, would do just that. It would immediately repeal the statutory prohibition on the SEC and CFTC from regulating swaps. In addition, the bill would give authority to federal financial regulators, including bank, securities, and commodities regulators, to oversee and regulate all types of swap agreements, whether traded on an exchange or over-the-counter, including credit default, commodity, equity, foreign currency, and interest rate swaps. The bill would enable financial regulators, for the first time since 2000, to exercise oversight of the now largely hidden and unregulated swaps markets.

To understand why this legislation is needed and should be enacted promptly without waiting for the larger financial reform bill that's coming, I want to review some history. Twelve years ago, in 1997, Brooksley Born, then the head of the CFTC, raised a red flag about the growing use of over-the-counter swaps and other derivatives that were being traded outside of regulated exchanges and outside of normal federal oversight. She called for a study of those over-the-counter transactions and for comments on whether they should be subject to some type of regulation.

Her effort was immediately met with resistance, however, from not only the financial industry that profited from swaps trading, but also other Federal regulators then in office. For example, then Federal Reserve Chairman Alan Greenspan, then Treasury Secretary Robert Rubin, and then SEC Chairman Arthur Levitt all opposed her effort to even examine over-the-counter swap agreements. The dominant view at the time was that regulation was unnecessary and would only slow down a booming market.

In 1998, at the urging of then Chairman Greenspan, Secretary Rubin, Chairman Levitt, and others, Congress enacted legislation which actually barred the CFTC from conducting the study that Chairman Born wanted and from developing any regulatory alternatives for over-the-counter swaps.

In 2000, Congress went farther. In late December, during the final days of the 106th Congress, legislation affecting a range of financial issues was slipped without notice into a conference report of an omnibus appropriations bill. That legislation, called the Commodity Futures Modernization Act, included provisions which together created a flat out prohibition on the regulation of every kind of swap the authors could

think of, including credit default, commodity, equity, foreign currency, interest rate, and even weather swaps. That type of sweeping statutory prohibition had never been included in any bill voted on by the Senate before being inserted into a must-pass appropriations bill in December 2000. That omnibus appropriations bill was approved by the Senate on a voice vote.

Today we are living with the disastrous consequences of that ill-conceived prohibition on the regulation of swaps.

One example says it all: AIG. AIG is a financial holding company that, all by itself, has cost taxpayers more than \$150 billion so far. Over a period of years, AIG had issued more than \$400 billion in credit default swaps without setting aside sufficient capital or liquidity reserves. After its swaps began losing value, AIG's counterparties required AIG to post multi-billion-dollar collateral to secure payment on those swaps, and a credit rating downgrade threatened to increase its collateral calls, AIG came pleading for a taxpayer bailout. The \$150 billion in taxpayer dollars was needed not only to keep AIG afloat, but also to bail out a dozen other large financial institutions that had purchased credit protection from AIG, including Goldman Sachs, Merrill Lynch, and Bank of America.

Apparently, none of those credit default swap exposures had been known to Federal regulators until AIG informed the Federal Reserve on a Friday that it was likely to go out of business the following week unless provided billions in taxpayer support. When regulators understood how far in the hole AIG had fallen and how many financial institutions would be affected by its financial collapse, they determined that they had no choice but to prop up the whole mess with taxpayer dollars.

AIG is not the only financial institution with risky credit default swaps. But even if federal regulators know of other high-risk problems, the law has tied their hands in terms of what steps can be taken in response. Even measures that most experts believe would reduce systemic risks, such as requiring companies to use credit default swap clearinghouses or requiring traders to disclose all credit default swap transactions, cannot be fully implemented, because Federal agencies lack the authority to regulate swaps.

Seven months ago, during a Senate hearing in September 2008, Christopher Cox, then chairman of the SEC, testified that the credit default swap market was "completely lacking in transparency" and "ripe for fraud and manipulation." A few days later he called on Congress to take "swift action" to give regulators the authority to oversee credit default swaps. But the statutory barriers prohibiting swaps regulation have remained in place.

Giving the regulators what they have asked for is long overdue. It does not make sense for Federal regulators to be

statutorily barred from requiring disclosure of swap transactions, mandating use of clearinghouses, or imposing other safeguards particularly in light of the size of the swaps market with trillions of dollars in credit default swap, interest rate, commodity, equity, foreign currency, and other swaps.

Even some past opponents of swaps regulation have rethought their opposition.

Alan Greenspan acknowledged last October that there are "serious problems" associated with credit default swaps.

Robert Rubin recently acknowledged that derivatives, which include swaps, "create systemic risk."

Arthur Levitt said it was a mistake not to have regulated swap agreements.

Top financial officials in the Obama Administration, including Treasury Secretary Tim Geithner, National Economic Council Chairman Larry Summers, SEC Chair Mary Schapiro, and CFTC nominee Gary Gensler have all called publicly for stronger regulation of over-the-counter transactions, including swap agreements.

Congress and the Administration are now engaged in an effort to enact comprehensive financial reforms to safeguard our economy. While some of those reforms require a lot of time and deliberation to get right, others can—and should—be implemented more quickly. Removing the prohibition on regulating swaps is one of those reforms that can and should be done now, so our regulators can begin, without the hindrance of ill-conceived statutory barriers, to design a sensible regulatory framework for swaps.

Here is what my bill would do. First, it would repeal about a dozen provisions in the Commodity Futures Modernization Act and other laws that prevent federal financial regulators from overseeing and regulating swap agreements. Second, it would give Federal financial regulators, including bank, securities, and commodity regulators, immediate authority to oversee and regulate swaps involving the financial institutions and exchanges that they already regulate. To ensure regulators have sufficient authority, the bill would use the same comprehensive definition of swap agreement that is used in current law to prohibit swaps regulation.

These measures would give regulators immediate authority to acquire swap-related data. That would allow them to evaluate swap risks at specific companies as well as across the financial system. Regulators could then use this data to look into what additional safeguards are needed and what abuses need to be stopped.

One thing the bill would not do is require federal financial regulators to regulate swaps or tell them how to regulate swaps if they decide to do so. That is left for the larger regulatory reform bill coming later this year. The

only instruction provided in this bill is that, if any regulator decides to act, it must consult, work, and cooperate with all of the other federal financial regulators to ensure swaps are treated in a consistent way.

I see this bill as a necessary first step to eliminate harmful statutory barriers that tie regulators' hands, impede oversight of the multi-trillion-dollar swaps markets, and create systemic risk. The bill does not take the needed second step of laying out ways to regulate swaps. It does not, for example, specify swaps recordkeeping, disclosure requirements, clearing requirements, capital or liquidity safeguards, or other measures. Senator COLLINS has another bill that, in part, addresses credit default swaps clearinghouses; I have a separate bill that specifies safeguards in the area of commodity swaps. Other colleagues have introduced bills that address a variety of swaps issues. The legislation we are introducing today does not contradict or preclude any of those other approaches it is an interim measure that would clear the way for more specific swaps requirements in subsequent reform legislation.

The Levin-Collins bill offers a limited, commonsense way to restore immediate federal authority over a high-risk, high-dollar financial sector that has operated for too long in the shadows, and whose failure has cost us hundreds of billions of dollars so far. Due to the trillions of dollars and financial risk involved, I urge the Senate to act on this bill as soon as possible.

I would also like to take a moment to extend my thanks and appreciation to the SEC, CFTC, and Treasury officials who took the time to provide technical assistance in drafting this legislation. I hope those agencies, and the Obama Administration as a whole, will announce their support for the bill and work for its enactment.

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

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

SUMMARY OF LEVIN-COLLINS AUTHORIZING THE REGULATION OF SWAPS ACT

The Authorizing the Regulation of Swaps Act, introduced by Senator Carl Levin, D-Mich., and cosponsored by Senator Susan Collins, R-Maine, is intended to give federal financial regulators immediate authority over swap agreements in light of the fact that trillions of dollars in swap transactions continue to be marketed, traded, and implemented in the United States without adequate federal oversight or regulatory authority. Hundreds of billions of taxpayer dollars have already been expended to overcome the failures of firms that engaged in unregulated swaps. The bill contains the following provisions.

Repeal Existing Prohibitions on Regulating Swaps. The bill would repeal over a dozen provisions in existing law, including in the Commodity Futures Modernization Act of 2000, which prohibit federal financial regulators from regulating swap agreements.

Authorize the Regulation of Swaps. The bill would give authority to federal financial

regulators, including bank, securities and commodities regulators, to oversee and regulate all types of swap agreements, including credit default, commodity, equity, interest rate, and foreign currency swaps. The bill uses the same definition of swap agreement that is used in current law to prohibit swaps regulation, and would authorize federal oversight and regulation of all exchange-traded and over-the-counter swaps.

**Require Consistent Treatment of Swaps.** The bill does not require federal regulators to regulate swap agreements—it merely authorizes such regulation and removes barriers that have prevented this regulation since 2000. Nor does the bill provide any direction to federal financial regulators on how to regulate swaps other than to require them to consult, work, and cooperate with each other to promote consistency in the treatment of swap agreements.

**Establish Interim Authority.** By removing existing statutory prohibitions and providing federal financial regulators with authority to oversee and regulate swaps, the bill would eliminate harmful statutory barriers, give regulators immediate interim authority over multi-trillion-dollar swaps markets, and clear the way for more specific swaps requirements in subsequent comprehensive financial reform legislation later this year.

By Mr. KERRY (for himself and Mr. LUGAR):

S. 962. A bill to authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes; to the Committee on Foreign Relations.

Mr. KERRY. Mr. President, I rise today to join my colleague, the ranking member of the Foreign Relations Committee, Senator LUGAR, in introducing what we consider to be an important piece of legislation from our committee and an important initiative for the administration and for the Congress and the American people. We are joining today to introduce the Enhanced Partnership with Pakistan Act. I believe the legislation has already been placed at the desk.

This is legislation that will fundamentally change America's policy toward Pakistan, and I hope over time it will fundamentally change America's relationship with the people of Pakistan as well.

I especially thank Senator LUGAR for his partnership in crafting this legislation and for his ongoing leadership on this issue.

It is hard to overstate the importance of Pakistan to our national security. In fact, every day the newspapers are full of events that are transpiring there and of the challenges we face. Pakistan is a nation which could either serve as a force for stability and progress in a volatile region or it could become an epicenter for radicalism and violence on a cataclysmic scale.

This is a nation of striking contradictions and on divergent paths forward.

On one hand, we all know Pakistan is a nation where Osama bin Laden and the leadership of al-Qaida have found sanctuary for the past 7 years—a haven from which they and their confederates

have plotted and carried out attacks on their host country, on neighboring countries, and on sites around the globe—a nation that has in recent weeks seen the Taliban advance to within 60 miles of its capital, and a nation with a full arsenal of nuclear weapons and ballistic missiles capable of delivering them anywhere in a 1,000-kilometer range.

On the other hand, Pakistan is also a nation whose 170 million people are overwhelmingly moderate, overwhelmingly committed to democracy and rule of law; a major non-NATO ally that has sacrificed the lives of 1,500 of its soldiers and police in the fight against terrorism and insurgency; and a nation that has lost more of its citizens to the scourge of terrorism than all but a tiny handful of countries throughout the world.

In short, Pakistan has the potential either to be crippled by the Taliban or to serve as a bulwark against everything the Taliban represents. That is why the Obama administration and many of us in Congress see the need for a bold new strategy for Pakistan. The status quo has not brought success, the stakes could not be higher, and we have little choice but to think differently—in fact, to think bigger—about what these challenges are. The Enhanced Partnership With Pakistan Act is the centerpiece of this new approach, which is why President Obama has called on Congress to pass it.

An earlier version of this bill was reported out of the Foreign Relations Committee in July with overwhelming bipartisan support. This version builds upon its predecessor in a number of important ways. First, this new legislation directs \$100 million toward an urgent need: police reform and equipping. Second, it mandates strict accountability from the administration as to every dollar that is spent, using benchmarks and metrics to measure and adapt our performance. Third, in light of the acute security challenge on the ground today, this bill gives our Ambassador the flexibility needed to respond to events as they unfold.

We believe this bill is urgently needed. For decades, the United States has sought the cooperation of Pakistani decisionmakers through military aid—almost exclusively military aid—while paying scant attention to the wishes and urgent needs of the population itself. This arrangement is, frankly, rapidly disintegrating. We believe we are paying too much for one thing and getting too little for a broad number of things we really need. When I say “we,” I really emphasize the Pakistani people's needs. The desires and aspirations of the Pakistani people have never been adequately focused on or attended to sufficiently in these policies. Most Pakistanis understand that they have been, frankly, left out of the policy in broad terms. As a result, an alarming percentage of the Pakistani population now sees America as a greater threat than al-Qaida. Until we

change that perception, there is, frankly, very little chance of ending tolerance for terrorist groups or persuading any Pakistani Government to devote the political capital necessary to deny such groups and to deny them the sanctuary they have been able to receive, particularly in the western part of the country, as well as to deny them the covert material support which they have also been able to get from a number of different sources.

The dangers of inaction are rising almost every day. So when people measure this legislation, that is really what they have to consider. What happens if you do nothing? Well, if you do nothing, it is clear that the march of terror that is taking hold in a number of different places clearly threatens nuclear weapons that might then potentially fall into hands that are completely unpredictable. In fact, to whatever degree they might be predictable, one can only see danger in that kind of eventuality. The dangers of inaction are real. Almost any scenario played out plays against the broader interests of the Pakistani people and of the democratic Government which struggles today to provide services and to govern them.

In the month since President Obama called on Congress to pass the bill we are now introducing, the situation on the ground in Pakistan has deteriorated significantly. The Government struck what many of us believed and said at the time was an ill-advised deal that effectively surrendered the Swat Valley to the Taliban. The deal, predictably—as many of us said—emboldened the Taliban to deploy the same brutal tactics they had used in both Pakistan and Afghanistan and to use their base in Swat to then extend their reach ever closer to the country's heartland.

I emphasize—I know Senator LUGAR will join me in emphasizing this—ultimately, it is not the United States or the policy of the United States that is going to decide what happens in Pakistan. Ultimately, it will be Pakistanis, not Americans, who must determine their nation's future. But we can change the nature of our relationship and we can empower those Pakistanis who are fighting to steer the world's second largest Muslim country onto a path of moderation and stability and regional cooperation. That is the foundation of the bill Senator LUGAR and I are introducing.

Frankly, I have seen firsthand how this approach works. Following the 2005 Kashmir earthquake, the United States spent nearly \$1 billion on relief efforts. Having visited places, as I did then, such as Mansehra and Muzaffarabad in the earthquake's aftermath, I can personally attest to the awesome power of the operation we launched. I will never forget flying up in a helicopter to the northwest part of Pakistan, not far from the big Himalayas, where one could see off in the distance, and landing in a small spot by the river and meeting kids in a

tent city because this was the first time those kids had ever come out of the mountains and, in fact, the first time any of those kids had ever gone to school. It was extraordinary to see the sight of American service men and women saving the lives of Pakistani citizens. Frankly, it was invaluable in changing the perceptions of America in Pakistan. At that period of time, while we provided that assistance and while we were visibly involved in saving lives, not in taking them, the fact is that the reputation of the United States in the country as it was measured by polls at the time markedly increased, very dramatically increased.

In the wake of that natural disaster, we weren't the only ones to recognize the need for public diplomacy based in deeds rather than in words. The front group for the terrorist organization Lashkar-e Taiba set up a string of professional relief camps throughout the region trying to mimic what we were doing. But our effort was far more effective, and the permanent gift of the U.S. Army's last mobile Army surgical hospital, or MASH, had a profound impact on the perceptions of people in the region. For a brief period, America was going toe-to-toe with extremists in a true battle of hearts and minds, and we were winning.

It is up to us to recreate this kind of success on a broader scale, without waiting for a natural or even a man-made disaster. The question is, How can we most effectively demonstrate the true friendship of the American people for the Pakistani people?

We believe this bill is an important first step. It is a prime example of what we call "smart power" because it uses both economic and military aid to achieve an overall effect that is greater than the sum of its parts. On the economic side, this bill triples non-military aid to \$1.5 billion annually for 5 years and urges an additional 5 years of funding. These funds will be used to build schools, roads, and clinics. In other words, they aim to do on a regular basis what we briefly achieved with our earthquake relief and what the Pakistani Government, because of the economic crisis as well as political crisis in the country, has been unable to do to date. But this money will do a great deal more than just good deeds. It will empower the fledgling civilian Government to show that it can deliver the citizens of Pakistan a better life. It will empower the moderates, who will have something concrete to put forward as evidence that friendship with America actually brings rewards, not just perils, and it will empower the vast majority of Pakistanis who reject the terrifying vision of al-Qaida and Taliban but who have been angered and frustrated by the perception that their own leaders and America's leaders don't care about their daily struggle.

To do this right, we must make a long-term commitment. Most Pakistanis think that America has used and abandoned their country in the past,

most notably after the jihad against the Soviets in Afghanistan. They fear we will just desert them again the moment the threat from al-Qaida subsides. It is this history and this fear that cause Pakistan to hedge its bets.

If we ever expect Pakistan to break decisively with the Taliban and other extremist groups, then we need to provide firm assurance that we are not just foul-weather friends. By authorizing funds through 2013, and hopefully longer, this bill offers the chance to clearly state America's longer term concerns and interests.

On the security side, the bill places conditions on military aid that will ensure the money is used for the intended purposes, which was not the case over the last 8 years. In order for Pakistan to receive any military assistance, it will need to meet an annual certification that its army and spy services are genuine partners in this endeavor.

In the struggle against al-Qaida and other terrorist groups, including Lashkar-e Taiba—as we all know, Lashkar-e Taiba was the perpetrator of the Mumbai massacre of last November. We also will need a certification of their partnership in the battle against the Taliban and its affiliates who threaten our troops in Afghanistan from their sanctuaries in the Pakistani tribal areas, as well as in the effort to solidify democratic governance and the rule of law in Pakistan. We believe these conditions are eminently reasonable, and they should be easy to meet for any nation receiving American aid.

As important as the economic and military components of the bill are is the question of how they fit together. Making this unequivocal commitment to the Pakistani people enables us to calibrate our military assistance more effectively. In any given year, we may choose to increase it or decrease it or to simply leave its level unchanged, but we will have the flexibility which we haven't had in prior years. For too long, the Pakistani military frankly believed we were bluffing when we threatened to cut funding for a particular weapons system or an expensive piece of hardware because that was the only game, if you will. It was the only money on the table. This bill will change that. Up to now, frankly, they were right about the unwillingness of the United States to take alternative routes. But if our economic aid becomes the centerpiece of our aid policy and it is tripled to \$1.5 billion, then we can actually guarantee that we pay more attention to how the military assistance is being spent and what is occurring. We will finally be able to make the choice of expenditure on the basis of both of our natural security interests rather than simply the institutional interests of the security forces in Pakistan.

Let me be clear on the issue of military aid. The bill does not take any position on the level of such assistance deliberately. It is possible to envision a significant increase in military aid,

just as easily as one could envision a decrease. The Pakistani army needs more helicopters. It needs more night-vision capability, more training and counterinsurgency techniques. So instead of locking in a figure for future years, what this bill does is provide us the ability to target our military aid directly to the areas that best serve both of our national security interests, which are fighting terrorism, fighting the insurgency, and keeping the people of Pakistan safe from the most dire threats.

Moreover, this bill allows us to fine-tune our approach in response to the level of will and competence displayed by Pakistan's military: When we see the genuine commitment, then we can help increase capabilities, and if we see at any time that commitment is lacking, we have the ability to adjust and redirect assistance rather than permit it to be wasted. We have spent some \$10 billion in military aid and compensation over the past 8 years. Still, the militants got within 60 miles of the capital recently and al-Qaida continues to enjoy a sanctuary. So it is long past time we figure out how to work more effectively with the Pakistanis and the Pakistani Government on a more effective approach. That is what we hope this achieves.

This bill is not a short-term fix. It aims for the medium term and especially the long term. It won't drive the Taliban out of Swat Valley next week or next month. Its aim is, once the Taliban is driven from Swat and from Bajaur and from Dir, to help keep them out. To put it in terms of basic counterinsurgency doctrine made familiar by General Petraeus, the Pakistani military is already able to handle the "clear" phase of the struggle. The United States will now be assisting this mission through other vehicles. But the bill Senator LUGAR and I are introducing will provide vital help for the "hold" and the "build" parts of the mission. Nor is this bill intended to be a silver bullet. It provides powerful tools, but these tools are only as effective as the policymakers who wield them. I am confident President Obama and his team will use wisely whatever policy tools are at their disposal.

We need to approach this endeavor with a large dose of humility. The truth is that our leverage is limited.

This bill aims to increase that leverage significantly. But we need to be realistic about what we can accomplish. Americans can influence events in Pakistan, but we cannot and we should not decide them. Ultimately, the decisionmakers are the people and the leaders of Pakistan.

Ask any resident of Lahore, Karachi, or Peshawar what these places used to be like and you will hear a long statement of the reveries of the time that now seems a world away. We need to help Pakistan once again become a nation of stability, security, and prosperity, enjoying peace at home and abroad—a nation, in short, that older

Pakistanis remember from their childhoods.

It is this nation that most Pakistanis desperately wish to reclaim. The bill that Senator LUGAR and I now introduce will help America ensure that Pakistanis have the resources necessary to choose a peaceful, stable future. It offers them a helping hand in getting there. I urge our colleagues to join us in supporting this bill.

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

Mr. LUGAR. Mr. President, I am pleased and honored to join our chairman, JOHN KERRY, in introducing the Enhanced Partnership with Pakistan Act of 2009. Then-Senator JOE BIDEN and I originally introduced this legislation in July 2008. I have been especially pleased to continue the bipartisan effort on this bill with Senator KERRY.

Senators BIDEN and KERRY and I have worked closely over the past year with the State Department, USAID, the Defense Department, and the National Security Council to craft this legislation.

On March 27 of this year, President Obama announced a comprehensive strategy for Afghanistan and Pakistan. In his speech he called on Congress “to pass a bipartisan bill cosponsored by JOHN KERRY and RICHARD LUGAR that authorizes \$1.5 billion in direct support to the Pakistani people every year over the next 5 years—resources that will build schools, roads, and hospitals, and strengthen Pakistan’s democracy.”

Chairman of the Joint Chiefs of Staff ADM Mike Mullen and CENTCOM Commander David Petraeus repeatedly advocated expanding foreign assistance to Pakistan as an essential element of our national security. Defense Secretary Robert Gates and Secretary of State Hillary Clinton both have testified that strengthening democracy and countering terrorism in Pakistan go hand in hand. Secretary Clinton said at a Senate Appropriations Committee meeting last week:

As President Obama has consistently maintained, success in Afghanistan depends on success in Pakistan. We have seen how difficult it is for the government there to make progress, and the Taliban continues to make inroads. Counterinsurgency training is critical. But of equal importance are diplomacy and development to provide economic stability and diminish the conditions that feed extremism. This is the intent of the comprehensive strategy laid out by Senator KERRY and Senator LUGAR, which President Obama has endorsed.

I take the time to detail administration backing for this bill and its concepts because any U.S. policy related to Pakistan will require the cooperation and active support of both the executive and legislative branches of our Government. It also will require that policy toward Pakistan be closely integrated with United States efforts throughout the region.

I do not regard the Kerry-Lugar bill as a congressionally driven initiative in which we are bargaining for support of the administration; rather, Senator

KERRY and I are trying to play a constructive role in facilitating a consensus position between branches that will undergird a rational approach to the region with the best chance of success. With this in mind, it is vital that the administration’s message on Pakistan be clear and consistent. The administration also must continue to actively consult with Congress on elements of strategy, not just lobby us for funds.

The United States has an intense strategic interest in Pakistan and the surrounding region. The U.S. National Intelligence Estimate last year painted a bleak picture of the converging crises in Pakistan. A growing al-Qaida sanctuary, an expanding Taliban insurgency, political brinkmanship, and a failing economy are intensifying the turmoil and violence in that country. These circumstances are a threat to Pakistan, the region, and the United States of America.

We should make clear to the people of Pakistan that our interests are focused on democracy, pluralism, stability, and the fight against terrorism. These are values supported by a large majority of Pakistani people. If Pakistan is to break its debilitating cycle of instability, it will need to achieve progress on fighting corruption, delivering government services, and promoting broad-based economic growth. The international community and the United States should support reforms that contribute to the strengthening of Pakistani civilian institutions.

This legislation marks an important step toward those goals. While our bill envisions sustained economic and political cooperation with Pakistan, it is not a blank check. It expects that the military institutions in Pakistan will turn their attention to the extremist dangers within Pakistan’s borders. The bill subjects our security assistance to a certification that the Pakistani Government is using the money for its intended purpose—namely, to combat the Taliban and al-Qaida. The bill also calls for tangible progress in governance, including an independent judiciary, greater accountability by the central government, respect for human rights, and civilian control of the levers of power, including the military and the intelligence agencies.

In providing substantial resources to enhance a strategic partnership with Pakistan, our bill contains provisions to help ensure that this money is spent effectively and efficiently. The bill stipulates that the administration must provide Congress with a comprehensive assistance strategy before additional assistance is made available. This strategy is expected to detail clear objectives, enumerate projects the administration intends to implement, and identify criteria that the administration will use to measure the effectiveness of our assistance.

Once money begins to flow, the administration must report every 6 months on how the money is spent and

what impact it is having. In addition, the bill provides that before the administration spends more than half of the \$1.5 billion authorized in any fiscal year, it must certify that the assistance provided to that date is making substantial progress toward the principal objectives contained in the administration’s strategy report. We also have asked the Government Accountability Office to review annually the administration’s progress on stated goals. To ensure that sufficient resources will be available to oversee our program in Pakistan, we authorize \$20 million each year for audits and program reviews by the inspectors general of the State Department, USAID, and other relevant agencies.

I look forward to working with the administration of President Obama and with congressional colleagues on a policy toward Pakistan that builds our relationship with that nation and protects vital interests of the United States.

Again, I thank Senator KERRY for his partnership and leadership on this bill.

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

S. 965. A bill to approve the Taos Pueblo Indian Water Rights Settlement Agreement, and for other purposes; to the Committee on Indian Affairs.

Mr. BINGAMAN. Mr. President, today Senator UDALL and I are introducing a bill that will end an ongoing water rights dispute in northern New Mexico. The bill accomplishes this by authorizing a water rights settlement resolving Taos Pueblo’s water rights claims in the Rio Pueblo de Taos, a tributary to the Rio Grande.

The Rio Pueblo de Taos adjudication is a dispute that is almost 40 years old. The parties have been in settlement discussions for well over a decade but it was not until the last 5 years that the discussions took on the sense of urgency needed to resolve the issues at hand. A settlement agreement was signed by the Pueblo, State, and other interested parties in March 2006. Federal legislation was then finalized and introduced last year. Progress was made on the bill, including hearings in both the House and Senate which resulted in the identification of a few more issues which needed to be addressed. The parties negotiated a resolution to these issues and legislation to authorize and implement the settlement is now ready to move forward.

The settlement will fulfill the rights of the Pueblo consistent with the Federal trust responsibility. It will also continue the tradition of sharing precious water resources in a manner necessary to protect the sustainability of traditional agricultural communities. Finally, the Town of Taos and other local entities are assured of accessing the water necessary to meet municipal and domestic needs. In sum, the Taos Pueblo Indian Water Rights Settlement Act represents a commonsense

set of solutions that all parties to the adjudication have a stake in implementing.

This legislation is widely supported in the Taos Valley, probably as close to a consensus as any water-related agreement can get in the West. The State of New Mexico, under Governor Richardson's leadership, deserves recognition for actively pursuing a settlement in this matter and committing financial resources in recognition of the importance of this matter to all water users in the basin.

This bill, as with any water rights settlement, is crucial to New Mexico's future. In an arid State such as ours, the legal system is poorly equipped to allocate water and create the infrastructure needed for its efficient use. Negotiated agreements between the parties, the State Engineer, and the Federal Government are much more likely to lead to long-term solutions that allow for the use of water in a sustainable manner. This legislation builds upon the provisions included in the Navajo water rights settlement enacted into law on March 30, 2009 as part of the Omnibus Public Lands bill. That settlement, and each subsequent one, will help provide more certainty and less conflict with respect to the allocation and use of water in New Mexico. I look forward to working with my colleagues in the Senate, as well as the House of Representatives, to see that this bill gets enacted into law.

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. 965

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

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Taos Pueblo Indian Water Rights Settlement Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose.
- Sec. 3. Definitions.
- Sec. 4. Pueblo rights.
- Sec. 5. Pueblo water infrastructure and watershed enhancement.
- Sec. 6. Taos Pueblo Water Development Fund.
- Sec. 7. Marketing.
- Sec. 8. Mutual-Benefit Projects.
- Sec. 9. San Juan-Chama Project contracts.
- Sec. 10. Authorizations, ratifications, confirmations, and conditions precedent.
- Sec. 11. Waivers and releases.
- Sec. 12. Interpretation and enforcement.
- Sec. 13. Disclaimer.

#### SEC. 2. PURPOSE.

The purposes of this Act are—

(1) to approve, ratify, and confirm the Taos Pueblo Indian Water Rights Settlement Agreement;

(2) to authorize and direct the Secretary to execute the Settlement Agreement and to perform all obligations of the Secretary under the Settlement Agreement and this Act; and

(3) to authorize all actions and appropriations necessary for the United States to meet its obligations under the Settlement Agreement and this Act.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE NON-PUEBLO ENTITIES.—The term “Eligible Non-Pueblo Entities” means the Town of Taos, El Prado Water and Sanitation District (“EPWSD”), and the New Mexico Department of Finance and Administration Local Government Division on behalf of the Acequia Madre del Rio Lucero y del Arroyo Seco, the Acequia Madre del Prado, the Acequia del Monte, the Acequia Madre del Rio Chiquito, the Upper Ranchitos Mutual Domestic Water Consumers Association, the Upper Arroyo Hondo Mutual Domestic Water Consumers Association, and the Llano Quemado Mutual Domestic Water Consumers Association.

(2) ENFORCEMENT DATE.—The term “Enforcement Date” means the date upon which the Secretary publishes the notice required by section 10(f)(1).

(3) MUTUAL-BENEFIT PROJECTS.—The term “Mutual-Benefit Projects” means the projects described and identified in articles 6 and 10.1 of the Settlement Agreement.

(4) PARTIAL FINAL DECREE.—The term “Partial Final Decree” means the Decree entered in New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896-BB (U.S. D.N.M.) and 7939-BB (U.S. D.N.M.) (consolidated), for the resolution of the Pueblo's water right claims and which is substantially in the form agreed to by the Parties and attached to the Settlement Agreement as Attachment 5.

(5) PARTIES.—The term “Parties” means the Parties to the Settlement Agreement, as identified in article 1 of the Settlement Agreement.

(6) PUEBLO.—The term “Pueblo” means the Taos Pueblo, a sovereign Indian Tribe duly recognized by the United States of America.

(7) PUEBLO LANDS.—The term “Pueblo lands” means those lands located within the Taos Valley to which the Pueblo, or the United States in its capacity as trustee for the Pueblo, holds title subject to Federal law limitations on alienation. Such lands include Tracts A, B, and C, the Pueblo's land grant, the Blue Lake Wilderness Area, and the Tenorio and Karavas Tracts and are generally depicted in Attachment 2 to the Settlement Agreement.

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

(9) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(10) SETTLEMENT AGREEMENT.—The term “Settlement Agreement” means the contract dated March 31, 2006, between and among—

(A) the United States, acting solely in its capacity as trustee for Taos Pueblo;

(B) the Taos Pueblo, on its own behalf;

(C) the State of New Mexico;

(D) the Taos Valley Acequia Association and its 55 member ditches (“TVAA”);

(E) the Town of Taos;

(F) EPWSD; and

(G) the 12 Taos area Mutual Domestic Water Consumers Associations (“MDWCAs”), as amended to conform with this Act.

(11) STATE ENGINEER.—The term “State Engineer” means the New Mexico State Engineer.

(12) TAOS VALLEY.—The term “Taos Valley” means the geographic area depicted in Attachment 4 of the Settlement Agreement.

#### SEC. 4. PUEBLO RIGHTS.

(a) IN GENERAL.—Those rights to which the Pueblo is entitled under the Partial Final

Decree shall be held in trust by the United States on behalf of the Pueblo and shall not be subject to forfeiture, abandonment, or permanent alienation.

(b) SUBSEQUENT ACT OF CONGRESS.—The Pueblo shall not be denied all or any part of its rights held in trust absent its consent unless such rights are explicitly abrogated by an Act of Congress hereafter enacted.

#### SEC. 5. PUEBLO WATER INFRASTRUCTURE AND WATERSHED ENHANCEMENT.

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation, shall provide grants and technical assistance to the Pueblo on a nonreimbursable basis to—

(1) plan, permit, design, engineer, construct, reconstruct, replace, or rehabilitate water production, treatment, and delivery infrastructure;

(2) restore, preserve, and protect the environment associated with the Buffalo Pasture area; and

(3) protect and enhance watershed conditions.

(b) AVAILABILITY OF GRANTS.—Upon the Enforcement Date, all amounts appropriated pursuant to section 10(c)(1) or made available from other authorized sources, shall be available in grants to the Pueblo after the requirements of subsection (c) have been met.

(c) PLAN.—The Secretary shall provide financial assistance pursuant to subsection (a) upon the Pueblo's submittal of a plan that identifies the projects to be implemented consistent with the purposes of this section and describes how such projects are consistent with the Settlement Agreement.

(d) EARLY FUNDS.—Notwithstanding subsection (b), \$10,000,000 of the monies authorized to be appropriated pursuant to section 10(c)(1)—

(1) shall be made available in grants to the Pueblo by the Secretary upon appropriation or availability of the funds from other authorized sources; and

(2) shall be distributed by the Secretary to the Pueblo on receipt by the Secretary from the Pueblo of a written notice, a Tribal Council resolution that describes the purposes under subsection (a) for which the monies will be used, and a plan under subsection (c) for this portion of the funding.

#### SEC. 6. TAOS PUEBLO WATER DEVELOPMENT FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the “Taos Pueblo Water Development Fund” (hereinafter, “Fund”) to be used to pay or reimburse costs incurred by the Pueblo for—

(1) acquiring water rights;

(2) planning, permitting, designing, engineering, constructing, reconstructing, replacing, rehabilitating, operating, or repairing water production, treatment or delivery infrastructure, on-farm improvements, or wastewater infrastructure;

(3) restoring, preserving and protecting the Buffalo Pasture, including planning, permitting, designing, engineering, constructing, operating, managing and replacing the Buffalo Pasture Recharge Project;

(4) administering the Pueblo's water rights acquisition program and water management and administration system; and

(5) for watershed protection and enhancement, support of agriculture, water-related Pueblo community welfare and economic development, and costs related to the negotiation, authorization, and implementation of the Settlement Agreement.

(b) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, invest amounts in the Fund, and make monies available from the Fund for distribution to

the Pueblo consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001, et seq.) (hereinafter, "Trust Fund Reform Act"), this Act, and the Settlement Agreement.

(c) INVESTMENT OF THE FUND.—Upon the Enforcement Date, the Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, ch. 41, 25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (52 Stat. 1037, ch. 648, 25 U.S.C. 162a); and

(3) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(d) AVAILABILITY OF AMOUNTS FROM THE FUND.—Upon the Enforcement Date, all monies deposited in the Fund pursuant to section 10(c)(2) or made available from other authorized sources, shall be available to the Pueblo for expenditure or withdrawal after the requirements of subsection (e) have been met.

(e) EXPENDITURES AND WITHDRAWAL.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) IN GENERAL.—The Pueblo may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) REQUIREMENTS.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Pueblo spend any funds in accordance with the purposes described in subsection (a).

(2) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the requirement that monies withdrawn from the Fund are used for the purposes specified in subsection (a).

(3) LIABILITY.—If the Pueblo exercises the right to withdraw monies from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Pueblo shall submit to the Secretary for approval an expenditure plan for any portions of the funds made available under this Act that the Pueblo does not withdraw under paragraph (1)(A).

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, amounts remaining in the Fund will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act.

(5) ANNUAL REPORT.—The Pueblo shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(f) FUNDS AVAILABLE UPON APPROPRIATION.—Notwithstanding subsection (d), \$15,000,000 of the monies authorized to be appropriated pursuant to section 10(c)(2)—

(1) shall be available upon appropriation or made available from other authorized sources for the Pueblo's acquisition of water rights pursuant to Article 5.1.1.2.3 of the Settlement Agreement, the Buffalo Pasture Recharge Project, implementation of the Pueblo's water rights acquisition program and water management and administration system, the design, planning, and permitting of water or wastewater infrastructure eligible for funding under sections 5 or 6, or costs related to the negotiation, authorization, and implementation of the Settlement Agreement; and

(2) shall be distributed by the Secretary to the Pueblo on receipt by the Secretary from the Pueblo of a written notice and a Tribal Council resolution that describes the pur-

poses under paragraph (1) for which the monies will be used.

(g) NO PER CAPITA DISTRIBUTIONS.—No part of the Fund shall be distributed on a per capita basis to members of the Pueblo.

#### SEC. 7. MARKETING.

(a) PUEBLO WATER RIGHTS.—Subject to the approval of the Secretary in accordance with subsection (e), the Pueblo may market water rights secured to it under the Settlement Agreement and Partial Final Decree, provided that such marketing is in accordance with this section.

(b) PUEBLO CONTRACT RIGHTS TO SAN JUAN-CHAMA PROJECT WATER.—Subject to the approval of the Secretary in accordance with subsection (e), the Pueblo may subcontract water made available to the Pueblo under the contract authorized under section 9(b)(1)(A) to third parties to supply water for use within or without the Taos Valley, provided that the delivery obligations under such subcontract are not inconsistent with the Secretary's existing San Juan-Chama Project obligations and such subcontract is in accordance with this section.

(c) LIMITATION.—

(1) IN GENERAL.—Diversion or use of water off Pueblo lands pursuant to Pueblo water rights or Pueblo contract rights to San Juan-Chama Project water shall be subject to and not inconsistent with the same requirements and conditions of State law, any applicable Federal law, and any applicable interstate compact as apply to the exercise of water rights or contract rights to San Juan-Chama Project water held by non-Federal, non-Indian entities, including all applicable State Engineer permitting and reporting requirements.

(2) EFFECT ON WATER RIGHTS.—Such diversion or use off Pueblo lands under paragraph (1) shall not impair water rights or increase surface water depletions within the Taos Valley.

(d) MAXIMUM TERM.—

(1) IN GENERAL.—The maximum term of any water use lease or subcontract, including all renewals, shall not exceed 99 years in duration.

(2) ALIENATION OF RIGHTS.—The Pueblo shall not permanently alienate any rights it has under the Settlement Agreement, the Partial Final Decree, and this Act.

(e) APPROVAL OF SECRETARY.—The Secretary shall approve or disapprove any lease or subcontract submitted by the Pueblo for approval not later than—

(1) 180 days after submission; or

(2) 60 days after compliance, if required, with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or any other requirement of Federal law, whichever is later, provided that no Secretarial approval shall be required for any water use lease or subcontract with a term of less than 7 years.

(f) NO FORFEITURE OR ABANDONMENT.—The nonuse by a lessee or subcontractor of the Pueblo of any right to which the Pueblo is entitled under the Partial Final Decree shall in no event result in a forfeiture, abandonment, relinquishment, or other loss of all or any part of those rights.

(g) NO PREEMPTION.—

(1) IN GENERAL.—The approval authority of the Secretary provided under subsection (e) shall not amend, construe, supersede, or preempt any State or Federal law, interstate compact, or international treaty that pertains to the Colorado River, the Rio Grande, or any of their tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quantity of those waters.

(2) APPLICABLE LAW.—The provisions of section 2116 of the Revised Statutes (25

U.S.C. 177) shall not apply to any water made available under the Settlement Agreement.

(h) NO PREJUDICE.—Nothing in this Act shall be construed to establish, address, prejudice, or prevent any party from litigating whether or to what extent any applicable State law, Federal law, or interstate compact does or does not permit, govern, or apply to the use of the Pueblo's water outside of New Mexico.

#### SEC. 8. MUTUAL-BENEFIT PROJECTS.

(a) IN GENERAL.—Upon the Enforcement Date, the Secretary, acting through the Commissioner of Reclamation, shall provide financial assistance in the form of grants on a nonreimbursable basis to Eligible Non-Pueblo Entities to plan, permit, design, engineer, and construct the Mutual-Benefit Projects in accordance with the Settlement Agreement—

(1) to minimize adverse impacts on the Pueblo's water resources by moving future non-Indian ground water pumping away from the Pueblo's Buffalo Pasture; and

(2) to implement the resolution of a dispute over the allocation of certain surface water flows between the Pueblo and non-Indian irrigation water right owners in the community of Arroyo Seco Arriba.

(b) COST-SHARING.—

(1) FEDERAL SHARE.—The Federal share of the total cost of planning, designing, and constructing the Mutual-Benefit Projects authorized in subsection (a) shall be 75 percent and shall be nonreimbursable.

(2) NON-FEDERAL SHARE.—The non-Federal share of the total cost of planning, designing, and constructing the Mutual-Benefit Projects shall be 25 percent and may be in the form of in-kind contributions, including the contribution of any valuable asset or service that the Secretary determines would substantially contribute to completing the Mutual-Benefit Projects.

#### SEC. 9. SAN JUAN-CHAMA PROJECT CONTRACTS.

(a) IN GENERAL.—Contracts issued under this section shall be in accordance with this Act and the Settlement Agreement.

(b) CONTRACTS FOR SAN JUAN-CHAMA PROJECT WATER.—

(1) IN GENERAL.—The Secretary shall enter into 3 repayment contracts by December 31, 2009, for the delivery of San Juan-Chama Project water in the following amounts:

(A) 2,215 acre-feet/annum to the Pueblo.

(B) 366 acre-feet/annum to the Town of Taos.

(C) 40 acre-feet/annum to EPWSD.

(2) REQUIREMENTS.—Each such contract shall provide that if the conditions precedent set forth in section 10(f)(2) have not been fulfilled by December 31, 2015, the contract shall expire on that date.

(3) APPLICABLE LAW.—Public Law 87-483 (76 Stat. 97) applies to the contracts entered into under paragraph (1) and no preference shall be applied as a result of section 4(a) with regard to the delivery or distribution of San Juan-Chama Project water or the management or operation of the San Juan-Chama Project.

(c) WAIVER.—With respect to the contract authorized and required by subsection (b)(1)(A) and notwithstanding the provisions of Public Law 87-483 (76 Stat. 96) or any other provision of law—

(1) the Secretary shall waive the entirety of the Pueblo's share of the construction costs, both principal and the interest, for the San Juan-Chama Project and pursuant to that waiver, the Pueblo's share of all construction costs for the San Juan-Chama Project, inclusive of both principal and interest shall be nonreimbursable; and

(2) the Secretary's waiver of the Pueblo's share of the construction costs for the San Juan-Chama Project will not result in an increase in the pro rata shares of other San

Juan-Chama Project water contractors, but such costs shall be absorbed by the United States Treasury or otherwise appropriated to the Department of the Interior.

**SEC. 10. AUTHORIZATIONS, RATIFICATIONS, CONFIRMATIONS, AND CONDITIONS PRECEDENT.**

(a) RATIFICATION.—

(1) IN GENERAL.—Except to the extent that any provision of the Settlement Agreement conflicts with any provision of this Act, the Settlement Agreement is authorized, ratified, and confirmed.

(2) AMENDMENTS.—To the extent amendments are executed to make the Settlement Agreement consistent with this Act, such amendments are also authorized, ratified, and confirmed.

(b) EXECUTION OF SETTLEMENT AGREEMENT.—To the extent that the Settlement Agreement does not conflict with this Act, the Secretary shall execute the Settlement Agreement, including all exhibits to the Settlement Agreement requiring the signature of the Secretary and any amendments necessary to make the Settlement Agreement consistent with this Act, after the Pueblo has executed the Settlement Agreement and any such amendments.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) TAOS PUEBLO INFRASTRUCTURE AND WATERSHED FUND.—There is authorized to be appropriated to the Secretary to provide grants pursuant to section 5, \$30,000,000, as adjusted under paragraph (4), for the period of fiscal years 2010 through 2016.

(2) TAOS PUEBLO WATER DEVELOPMENT FUND.—There is authorized to be appropriated to the Taos Pueblo Water Development Fund, established at section 6(a), \$58,000,000, as adjusted under paragraph (4), for the period of fiscal years 2010 through 2016.

(3) MUTUAL-BENEFIT PROJECTS FUNDING.—There is further authorized to be appropriated to the Secretary to provide grants pursuant to section 8, a total of \$33,000,000, as adjusted under paragraph (4), for the period of fiscal years 2010 through 2016.

(4) ADJUSTMENTS TO AMOUNTS AUTHORIZED.—The amounts authorized to be appropriated under paragraphs (1) through (3) shall be adjusted by such amounts as may be required by reason of changes since April 1, 2007, in construction costs, as indicated by engineering cost indices applicable to the types of construction or rehabilitation involved.

(5) DEPOSIT IN FUND.—Except for the funds to be provided to the Pueblo pursuant to section 5(d), the Secretary shall deposit the funds made available pursuant to paragraphs (1) and (3) into a Taos Settlement Fund to be established within the Treasury of the United States so that such funds may be made available to the Pueblo and the Eligible Non-Pueblo Entities upon the Enforcement Date as set forth in sections 5(b) and 8(a).

(d) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the intent of the Settlement Agreement and this Act.

(e) ENVIRONMENTAL COMPLIANCE.—

(1) EFFECT OF EXECUTION OF SETTLEMENT AGREEMENT.—The Secretary's execution of the Settlement Agreement shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) COMPLIANCE WITH ENVIRONMENTAL LAWS.—In carrying out this Act, the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

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

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(f) CONDITIONS PRECEDENT AND SECRETARIAL FINDING.—

(1) IN GENERAL.—Upon the fulfillment of the conditions precedent described in paragraph (2), the Secretary shall publish in the Federal Register a statement of finding that the conditions have been fulfilled.

(2) CONDITIONS.—The conditions precedent referred to in paragraph (1) are the following:

(A) The President has signed into law the Taos Pueblo Indian Water Rights Settlement Act.

(B) To the extent that the Settlement Agreement conflicts with this Act, the Settlement Agreement has been revised to conform with this Act.

(C) The Settlement Agreement, so revised, including waivers and releases pursuant to section 11, has been executed by the Parties and the Secretary prior to the Parties' motion for entry of the Partial Final Decree.

(D) Congress has fully appropriated or the Secretary has provided from other authorized sources all funds authorized by paragraphs (1) through (3) of subsection (c) so that the entire amounts so authorized have been previously provided to the Pueblo pursuant to sections 5 and 6, or placed in the Taos Pueblo Water Development Fund or the Taos Settlement Fund as directed in subsection (c).

(E) The Legislature of the State of New Mexico has fully appropriated the funds for the State contributions as specified in the Settlement Agreement, and those funds have been deposited in appropriate accounts.

(F) The State of New Mexico has enacted legislation that amends NMSA 1978, section 72-6-3 to state that a water use due under a water right secured to the Pueblo under the Settlement Agreement or the Partial Final Decree may be leased for a term, including all renewals, not to exceed 99 years, provided that this condition shall not be construed to require that said amendment state that any State law based water rights acquired by the Pueblo or by the United States on behalf of the Pueblo may be leased for said term.

(G) A Partial Final Decree that sets forth the water rights and contract rights to water to which the Pueblo is entitled under the Settlement Agreement and this Act and that substantially conforms to the Settlement Agreement and Attachment 5 thereto has been approved by the Court and has become final and nonappealable.

(g) ENFORCEMENT DATE.—The Settlement Agreement shall become enforceable, and the waivers and releases executed pursuant to section 11 and the limited waiver of sovereign immunity set forth in section 12(a) shall become effective, as of the date that the Secretary publishes the notice required by subsection (f)(1).

(h) EXPIRATION DATE.—

(1) IN GENERAL.—If all of the conditions precedent described in section (f)(2) have not been fulfilled by December 31, 2016, the Settlement Agreement shall be null and void, the waivers and releases executed pursuant to section 11 and the sovereign immunity waivers in section 12(a) shall not become effective, and any unexpended Federal funds, together with any income earned thereon, and title to any property acquired or constructed with expended Federal funds, shall be returned to the Federal Government, unless otherwise agreed to by the Parties in writing and approved by Congress.

(2) EXCEPTION.—Notwithstanding subsection (h)(1) or any other provision of law, any unexpended Federal funds, together with any income earned thereon, made available under sections 5(d) and 6(f) and title to any property acquired or constructed with expended Federal funds made available under

sections 5(d) and 6(f) shall be retained by the Pueblo.

(3) RIGHT TO SET-OFF.—In the event the conditions precedent set forth in subsection (f)(2) have not been fulfilled by December 31, 2016, the United States shall be entitled to set off any funds expended or withdrawn from the amount appropriated pursuant to paragraphs (1) and (2) of subsection (c) or made available from other authorized sources, together with any interest accrued, against any claims asserted by the Pueblo against the United States relating to water rights in the Taos Valley.

**SEC. 11. WAIVERS AND RELEASES.**

(a) CLAIMS BY THE PUEBLO AND THE UNITED STATES.—In return for recognition of the Pueblo's water rights and other benefits, including but not limited to the commitments by non-Pueblo parties, as set forth in the Settlement Agreement and this Act, the Pueblo, on behalf of itself and its members, and the United States acting in its capacity as trustee for the Pueblo are authorized to execute a waiver and release of claims against the parties to New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896-BB (U.S.6 D.N.M.) and 7939-BB (U.S. D.N.M.) (consolidated) from—

(1) all claims for water rights in the Taos Valley that the Pueblo, or the United States acting in its capacity as trustee for the Pueblo, asserted, or could have asserted, in any proceeding, including but not limited to in New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896-BB (U.S.6 D.N.M.) and 7939-BB (U.S. D.N.M.) (consolidated), up to and including the Enforcement Date, except to the extent that such rights are recognized in the Settlement Agreement or this Act;

(2) all claims for water rights, whether for consumptive or nonconsumptive use, in the Rio Grande mainstream or its tributaries that the Pueblo, or the United States acting in its capacity as trustee for the Pueblo, asserted or could assert in any water rights adjudication proceedings except those claims based on Pueblo or United States ownership of lands or water rights acquired after the Enforcement Date, provided that nothing in this paragraph shall prevent the Pueblo or the United States from fully participating in the inter se phase of any such water rights adjudication proceedings;

(3) all claims for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water (including but not limited to claims for injury to lands resulting from such damages, losses, injuries, interference with, diversion, or taking) in the Rio Grande mainstream or its tributaries or for lands within the Taos Valley that accrued at any time up to and including the Enforcement Date; and

(4) all claims against the State of New Mexico, its agencies, or employees relating to the negotiation or the adoption of the Settlement Agreement.

(b) CLAIMS BY THE PUEBLO AGAINST THE UNITED STATES.—The Pueblo, on behalf of itself and its members, is authorized to execute a waiver and release of—

(1) all claims against the United States, its agencies, or employees relating to claims for water rights in or water of the Taos Valley that the United States acting in its capacity as trustee for the Pueblo asserted, or could have asserted, in any proceeding, including but not limited to in New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896-BB (U.S.6 D.N.M.) and 7939-BB (U.S. D.N.M.) (consolidated);

(2) all claims against the United States, its agencies, or employees relating to damages, losses, or injuries to water, water rights, land, or natural resources due to loss of

water or water rights (including but not limited to damages, losses or injuries to hunting, fishing, gathering, or cultural rights due to loss of water or water rights, claims relating to interference with, diversion or taking of water or water rights, or claims relating to failure to protect, acquire, replace, or develop water, water rights or water infrastructure) in the Rio Grande mainstream or its tributaries or within the Taos Valley that first accrued at any time up to and including the Enforcement Date;

(3) all claims against the United States, its agencies, or employees for an accounting of funds appropriated by the Act of March 4, 1929 (45 Stat. 1562), the Act of March 4, 1931 (46 Stat. 1552), the Act of June 22, 1936 (49 Stat. 1757), the Act of August 9, 1937 (50 Stat. 564), and the Act of May 9, 1938 (52 Stat. 291) as authorized by the Pueblo Lands Act of June 7, 1924 (43 Stat. 636) and the Pueblo Lands Act of May 31, 1933 (48 Stat. 108) and for breach of trust relating to funds for water replacement appropriated by said Acts that first accrued before the date of enactment of this Act;

(4) all claims against the United States, its agencies, or employees relating to the pending litigation of claims relating to the Pueblo's water rights in *New Mexico v. Abeyta and New Mexico v. Arellano*, Civil Nos. 7896-BB (U.S.6 D.N.M.) and 7939-BB (U.S. D.N.M.) (consolidated); and

(5) all claims against the United States, its agencies, or employees relating to the negotiation, Execution or the adoption of the Settlement Agreement, exhibits thereto, the Final Decree, or this Act.

(C) RESERVATION OF RIGHTS AND RETENTION OF CLAIMS.—Notwithstanding the waivers and releases authorized in this Act, the Pueblo on behalf of itself and its members and the United States acting in its capacity as trustee for the Pueblo retain—

(1) all claims for enforcement of the Settlement Agreement, the Final Decree, including the Partial Final Decree, the San Juan-Chama Project contract between the Pueblo and the United States, or this Act;

(2) all claims against persons other than the Parties to the Settlement Agreement for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water rights (including but not limited to claims for injury to lands resulting from such damages, losses, injuries, interference with, diversion, or taking of water rights) within the Taos Valley arising out of activities occurring outside the Taos Valley or the Taos Valley Stream System;

(3) all rights to use and protect water rights acquired after the date of enactment of this Act;

(4) all rights to use and protect water rights acquired pursuant to State law, to the extent not inconsistent with the Partial Final Decree and the Settlement Agreement (including water rights for the land the Pueblo owns in Questa, New Mexico);

(5) all claims relating to activities affecting the quality of water including but not limited to any claims the Pueblo might have under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (including but not limited to claims for damages to natural resources), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations implementing those Acts;

(6) all claims relating to damages, losses, or injuries to land or natural resources not due to loss of water or water rights (including but not limited to hunting, fishing, gathering, or cultural rights); and

(7) all rights, remedies, privileges, immunities, powers, and claims not specifically

waived and released pursuant to this Act and the Settlement Agreement.

(D) EFFECT OF SECTION.—Nothing in the Settlement Agreement or this Act—

(1) affects the ability of the United States acting in its sovereign capacity to take actions authorized by law, including but not limited to any laws relating to health, safety, or the environment, including but not limited to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), and the regulations implementing such Acts;

(2) affects the ability of the United States to take actions acting in its capacity as trustee for any other Indian Tribe or allottee;

(3) confers jurisdiction on any State court to—

(A) interpret Federal law regarding health, safety, or the environment or determine the duties of the United States or other parties pursuant to such Federal law; or

(B) conduct judicial review of Federal agency action; or

(4) waives any claim of a member of the Pueblo in an individual capacity that does not derive from a right of the Pueblo.

(E) TOLLING OF CLAIMS.—

(1) IN GENERAL.—Each applicable period of limitation and time-based equitable defense relating to a claim described in this section shall be tolled for the period beginning on the date of enactment of this Act and ending on the earlier of—

(A) December 31, 2016; or

(B) the Enforcement Date.

(2) EFFECT OF SUBSECTION.—Nothing in this subsection revives any claim or tolls any period of limitation or time-based equitable defense that expired before the date of enactment of this Act.

(3) LIMITATION.—Nothing in this subsection precludes the tolling of any period of limitations or any time-based equitable defense under any other applicable law.

#### SEC. 12. INTERPRETATION AND ENFORCEMENT.

(A) LIMITED WAIVER OF SOVEREIGN IMMUNITY.—Upon and after the Enforcement Date, if any Party to the Settlement Agreement brings an action in any court of competent jurisdiction over the subject matter relating only and directly to the interpretation or enforcement of the Settlement Agreement or this Act, and names the United States or the Pueblo as a party, then the United States, the Pueblo, or both may be added as a party to any such action, and any claim by the United States or the Pueblo to sovereign immunity from the action is waived, but only for the limited and sole purpose of such interpretation or enforcement, and no waiver of sovereign immunity is made for any action against the United States or the Pueblo that seeks money damages.

(B) SUBJECT MATTER JURISDICTION NOT AFFECTED.—Nothing in this Act shall be deemed as conferring, restricting, enlarging, or determining the subject matter jurisdiction of any court, including the jurisdiction of the court that enters the Partial Final Decree adjudicating the Pueblo's water rights.

(C) REGULATORY AUTHORITY NOT AFFECTED.—Nothing in this Act shall be deemed to determine or limit any authority of the State or the Pueblo to regulate or administer waters or water rights now or in the future.

#### SEC. 13. DISCLAIMER.

Nothing in the Settlement Agreement or this Act shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims, or entitlements to water of any other Indian tribe.

Mr. UDALL of New Mexico. Mr. President, today I join Senator BINGAMAN in introducing a bill to complete the Abeyta water settlement in northern New Mexico. Introduction of this bill represents a major milestone in the resolution of Taos Pueblo's water rights claims in the Rio Pueblo de Taos. Years of work and negotiation have gone into the settlement, and I am pleased that the tribes, village, city, county, acequias, and community groups involved were able to come to an agreement that is mutually beneficial to all the users of this tributary to the Rio Grande.

New Mexico is a State rich with tradition and culture, where the water resources are scarce and precious. As is common in most of the arid West, this vital but limited commodity can foster conflict between communities and individuals, and in a State where the history is long and complex, disputes over water are uniquely complicated. But, despite the complications surrounding water tenure, New Mexicans are united in a common respect for this resource. From the pueblos and tribes of New Mexico, to the historic acequias and growing communities, water is fundamental to both survival and cultural traditions, and is respected as such. The Abeyta settlement is an example of communities and the tribe coming together to resolve their differences and find a way to ensure that everyone has access to this precious and respected resource.

The Abeyta settlement establishes the water claims of the Pueblo of Taos, the Taos Valley Acequia Association, the Village of El Prado, and the Town of Taos. These communities depend heavily on agriculture and irrigation for both traditional practices and subsistence. The settlement ensures water for both agricultural and domestic use, and facilitates the rehabilitation of irrigation infrastructure. Additionally, the settlement helps to protect the quality of water in the watershed by protecting and recharging the wetlands areas of the Taos Pueblo's buffalo pasture. After years of negotiation, the parties involved in this important settlement have come to an agreement based on respect for cultural practices and a commitment to live as good neighbors sharing a common resource. I invite my colleagues to take note of the unprecedented level of cooperation, negotiation, and mutual support manifest in this settlement.

It has been said that the wars of the future will be fought over access to water. In New Mexico, we are setting a different precedent—a precedent of respect and compromise. One that will help us move into the future with well-established partnerships and a commitment to conserve and manage this vital resource to the benefit of all. I am honored to join Senator BINGAMAN today in introducing this legislation that will bring the Pueblo of Taos and the surrounding community one step closer to establishing a secure water future.

By Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. WHITEHOUSE)):

S. 966. A bill to improve the Federal infrastructure for health care quality improvement in the United States; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today with my colleague, Senator WHITEHOUSE of Rhode Island, to introduce the National Health Care Quality Act, legislation that makes health care quality a national priority. We have before us an overwhelming opportunity to make sweeping changes to our health care system. The dramatic change we need to improve America's health care delivery system requires a solid coordinated infrastructure to guide quality improvement; however this infrastructure does not exist today. The lack of a coordinated effort to improve health care quality has hindered our nation's ability to improve patient health outcomes and reduce inefficiencies in our health care system. In order to achieve our goals for true delivery system reform, health care quality must be elevated as a national priority.

As the cost of health care in America continues to increase, the quality of care Americans receive continues to decrease. The average cost of health insurance premiums has doubled in the last nine years, from \$5791 in 1999 to \$12,680 in 2008. However, less than half of adults receive recommended care. More is spent per person on health care in the United States than in any other nation in the world, and yet America has some of the worst health outcomes. Wide-spread inefficiencies plague our health care system. The Congressional Budget Office, CBO, estimates that 30 percent of annual health care spending, or as much as \$700 billion, could be eliminated with little to no impact on the system. Additionally, the Commonwealth Fund estimates that more than 100,000 American lives could be saved annually by improving health care quality to the level of performance achieved in other nations.

Several entities contribute to health care quality improvement in the U.S., including numerous federal departments, several key Federal agencies within those departments, and additional private-sector partners. While there has been some progress to coordinate efforts among these entities and create a framework for navigating quality improvement efforts, there is no defined structure in place to guide the process of quality improvement, prioritize limited resources, and provide oversight to ensure these efforts reflect the best interests of all patients. Therefore, legislation is needed to modernize our health care structure to create better coordination of quality efforts, and make certain the decisions about reimbursement and coverage will allow the government to effectively deliver care that is of the highest quality.

The National Health Care Quality Act would create a sensible infrastruc-

ture for health care quality improvement by creating an accountable entity—a new Office of National Health Care Quality Improvement within the Executive Office of the President—to set health care quality priorities for the nation. This office will be led by a new Director of National Health Care Quality, who will work with public and private stakeholders to establish and routinely update health care quality priorities for the nation based on a number of mandatory considerations, including the needs of children and the void in pediatric quality measures.

This legislation also puts forth a construct to coordinate health care quality improvement efforts across all federal agencies involved in purchasing, providing, studying, or regulating health care services. The bill statutorily re-establishes the Quality Interagency Coordinating Council, QuICC, first created during the Clinton administration, within the Office of National Health Care Quality Improvement. The purpose of the Quality Interagency Coordinating Council is to coordinate health care quality improvement efforts across all relevant Federal departments and agencies involved in health care services. It also provides a framework for the development and implementation of Department- and agency-specific quality improvement strategies.

Lastly, the legislation enhances health care quality improvement efforts within the Department of Health and Human Services, HHS, by expanding the authority of the Agency for Healthcare Research and Quality and elevating the role of the Director of AHRQ to a Senate-appointed position. By building on and improving the public-private process for health care quality measure development, AHRQ can also help to streamline the implementation of quality improvement measures within federal health programs under the jurisdiction of HHS. AHRQ will establish a standardized method for reporting quality measures and data to all federal health programs. Lastly, AHRQ would be required to develop and launch a public education campaign, aimed at both providers and consumers of health care, about health care quality improvement.

It is my belief that the multi-pronged approach provided in the National Health Care Quality Act will lead to vast improvements in the coordination of quality efforts and, most importantly, patient health outcomes. Given the current problems in the health care system, Congress has a responsibility to the American people to guarantee individuals have access to high quality, safe and effective care, and I urge my colleagues to join us in support of this important bill.

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. 966

*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 “National Health Care Quality Act”.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **HEALTH CARE QUALITY.**—The term “health care quality” means the degree to which health services for individuals and populations increase the likelihood of desired health outcomes and are consistent with current professional knowledge, based upon the following criteria:

(A) **EFFECTIVENESS.**—Health care services should be provided based upon scientific knowledge of all who could benefit.

(B) **EFFICIENCY.**—Waste, including waste of equipment, supplies, ideas, and energies, should be avoided.

(C) **EQUITY.**—The provision of health care should not vary in quality because of personal characteristics of the individuals involved.

(D) **PATIENT-CENTEREDNESS.**—Health care should be responsive to, and respectful of, individual patient preferences.

(E) **SAFETY.**—Injuries to patients from the health care that is supposed to help them should be avoided.

(F) **TIMELINESS.**—Waiting times and harmful delays in providing health care should be reduced.

(2) **HEALTH CARE QUALITY MEASURE.**—The term “health care quality measure” means a national consensus standard for measuring the performance and improvement of population health or of institutional providers of services, physicians, and other clinicians in the delivery of health care services, consistent with the health care quality criteria described in paragraph (1).

(3) **MULTI-STAKEHOLDER GROUP.**—The term “multi-stakeholder group” means, with respect to a health care quality measure, a voluntary collaborative of public and private organizations representing persons interested in, or affected by, the use of such health care quality measure, including—

(A) health care providers and practitioners, including providers and practitioners primarily serving children and those with long-term health care needs;

(B) health care quality entities;

(C) health plans;

(D) patient advocates and consumer groups;

(E) employers;

(F) public and private purchasers of health care items and services;

(G) labor organizations;

(H) relevant departments or agencies of the United States;

(I) biopharmaceutical companies and manufacturers of medical devices; and

(J) licensing, credentialing, and accrediting bodies.

**SEC. 3. DEPARTMENT AND AGENCY QUALITY REVIEW.**

Each relevant department and agency of the Federal Government shall review the statutory authority of such department or agency, effective on the date of enactment of this Act, administrative regulations, and policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act. Each department and agency shall, not later than July 1, 2010, propose to the President such measures as may be necessary to bring the authority and policies and procedures of such department or agency into conformity with the intent, purposes, and provisions set forth in this Act.

#### SEC. 4. NATIONAL HEALTH CARE QUALITY PRIORITIES.

(a) ESTABLISHMENT OF THE OFFICE OF NATIONAL HEALTH CARE QUALITY IMPROVEMENT.—There is established within the Executive Office of the President an Office of National Health Care Quality Improvement (“NHCQI”) (referred to in this section as the “Office”). The Office shall be headed by a Director of National Health Care Quality (referred to in this section as the “Director”) who shall be appointed by the President and shall report directly to the President.

##### (b) DIRECTOR.—

(1) RESPONSIBILITIES.—The Director shall perform the duties of the Office, described in paragraph (3), in a manner consistent with the development of a nationwide health care quality infrastructure that—

(A) coordinates and implements health care quality research, measurement, and data collection and reporting across all Federal agencies involved in purchasing, providing, studying, or regulating health care services;

(B) incorporates proven public and private quality improvement best practices;

(C) includes public and private quality improvement strategies to address activities other than health care quality measurement, such as provider payment models, alternative care models, licensing, professional certification, medical education, alternative staffing models, and public reporting; and

(D) leads to improved health care outcomes for patients across the United States.

(2) QUALIFICATIONS.—The President shall, by and with the advice and consent of the Senate, appoint a Director. The President shall select an individual who has—

(A) national recognition for expertise in health care quality improvement;

(B) experience addressing health care quality improvement in more than one health care setting, such as inpatient care, outpatient care, long-term care, public programs, and private programs; and

(C) experience addressing health care quality as it applies to vulnerable populations, including children, underserved populations, rural populations, individuals with disabilities, the elderly, and racial and ethnic minorities.

(3) DUTIES OF THE DIRECTOR.—The Director shall—

(A) advise the President on the quality of health care in the United States, including priorities and goals for the future;

(B) in coordination with public and private stakeholders, determine national priorities for improving health care quality, in accordance with subsection (c);

(C) establish annual benchmarks for each relevant Federal department and agency to achieve national priorities for health care quality improvement;

(D) develop an annual report card on the state of the Nation’s health as it relates to health care quality;

(E) in coordination with the heads of other relevant agencies and as part of the annual budget request of Congress, submit funding requirements, in accordance with subsection (d);

(F) serve as the chairperson of the Quality Interagency Coordinating Council (QuICC), established under section 4; and

(G) in consultation with the National Coordinator of Health Information Technology, develop an open source framework for Federal quality communication to create and maintain a standardized, electronic language or interface that enables all relevant Federal entities to communicate information or make requests regarding quality research, definitions, activities, or regulations, or to provide any other functionality, as the Director determines.

(c) NATIONAL PRIORITIES FOR HEALTH CARE QUALITY IMPROVEMENT.—

(1) IN GENERAL.—Not later than January 1, 2010 and at least every 5 years thereafter, the Director, in coordination with public and private stakeholders, shall establish national priorities for health care quality improvement.

(2) DEVELOPMENT OF PRIORITIES.—In establishing the national priorities for health care quality improvement under paragraph (1), the Director shall consider—

(A) health care outcomes in the United States in comparison to health outcomes in other World Health Organization member countries;

(B) the burden of disease, including the prevalence, incidence, and cost of disease to the United States;

(C) demographics;

(D) variability in practice norms;

(E) potential to eliminate harm to patients;

(F) improvements with the potential for the greatest impact on morbidity, mortality, performance, and a focus on the patient;

(G) quality measures that may be coordinated across different health care settings, including inpatient and outpatient measures, primary care, and specialty care;

(H) the specific quality improvement needs and challenges of rural areas; and

(I) the unique quality improvement needs disparities and challenges of vulnerable populations, including children, the elderly, individuals with disabilities, individuals near the end of life, and racial and ethnic minorities.

(3) INITIAL PRIORITIES.—The first set of national priorities established under this subsection shall include as a priority pediatric health care quality improvement, for children up to age 21.

(4) COLLABORATION WITH MULTI-STAKEHOLDER GROUPS.—

(A) IN GENERAL.—The Director shall convene and collaborate with multi-stakeholder groups in establishing and updating the national priorities under paragraph (1).

(B) TRANSPARENCY.—All collaboration between the Director and multi-stakeholder groups shall be conducted through an open and transparent process.

(C) STATUTORY CONSTRUCTION.—Notwithstanding any other provision in this paragraph, the Director shall have the final authority to decide whether to accept the recommendations provided by such multi-stakeholder groups.

(5) AGENCY- AND DEPARTMENT-SPECIFIC STRATEGIC PLANS.—Not later than October 1, 2010 and annually thereafter, the Director, in consultation with the heads of relevant Federal agencies and departments, shall develop agency- and department-specific strategic plans for health care quality improvement to achieve national priorities, including annual benchmarks.

(d) ANNUAL BUDGET REQUEST FOR RESOURCES.—As part of the annual budget request made by the President to Congress, beginning with such budget request made in calendar year 2011, the Director, in consultation with the heads of relevant Federal departments and agencies, shall include—

(1) a description of the agency- and department-specific strategic plans for health care quality improvement; and

(2) the level of Federal funding required for implementing or maintaining the quality improvement strategic plans described under paragraph (1).

(e) MONITORING.—

(1) IN GENERAL.—The Director shall institute mechanisms for monitoring the progress on achieving national health care quality priorities under subsection (c)(1) as well as department- and agency-specific strategic

plans under subsection (c)(5), including objectives, metrics, and benchmarks for the following:

(A) The benefits and drawbacks of specific quality improvement efforts for public programs and for the health care system at large.

(B) Coordination and communication of efforts to achieve interagency goals, including information exchange.

(C) Interagency coordination progress for national quality efforts.

(D) Methods for ensuring awareness and recognition among health care providers and the public at large of the significance of health care quality improvement.

(2) REPORTING.—

(A) REPORTING.—Not later than December 31, 2011, and by the end of each calendar year thereafter, the Director shall submit to the President and to Congress a report regarding the progress of Federal agencies in achieving the quality improvement priorities under paragraphs (1) and (5) of subsection (c), and shall make such report publicly available through the Internet.

(B) ANNUAL NATIONAL HEALTH CARE QUALITY REPORT CARD.—Not later than January 31, 2011, and annually thereafter, the Director shall publish a national health care quality report card, which shall include—

(i) the considerations for national health care quality priorities described in subsection (c)(2);

(ii) an analysis of the progress of the department- and agency-specific strategic plans under subsection (c)(5) in achieving the national health care quality priorities established under subsection (c)(1), and any gaps in such strategic plans;

(iii) the extent to which private sector strategies have informed Federal quality improvement efforts; and

(iv) a summary of consumer feedback regarding how well current quality improvement practices work for such consumers and additional ways to improve health care quality.

(f) WEBSITE.—Not later than July 1, 2010, the Director shall create a website to make public information regarding—

(1) the national priorities for health care quality improvement established under subsection (c)(1);

(2) the department- and agency-specific strategic plans for health care quality described in subsection (c)(5);

(3) the annual national health care quality report card described in subsection (e)(2)(B);

(4) ongoing health care quality research efforts;

(5) new and innovative health care quality improvement practices in the public and private sectors;

(6) a consumer feedback mechanism; and

(7) other information, as the Director determines to be appropriate.

(g) STAFF; EXPERTS AND CONSULTANTS; VOLUNTARY AND UNCOMPENSATED SERVICE.—

(1) STAFF.—The Director may employ such officers and employees as may be necessary to enable the Office to carry out its functions under this Act, and may employ and fix the compensation of such officers and employees as may be necessary to carry out its functions under this Act.

(2) EXPERTS AND CONSULTANTS.—The Director may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (without regard to the last sentence).

(3) VOLUNTARY AND UNCOMPENSATED SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the Office may accept and use voluntary and uncompensated services, as the Director determines necessary.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to carry out this section \$50,000,000 for fiscal years 2010 through 2014.

**SEC. 5. NATIONAL HEALTH CARE QUALITY COORDINATION.**

(a) ESTABLISHMENT.—As of the date of enactment of this Act, there is established within the Office of National Health Care Quality Improvement, the Quality Interagency Coordinating Council (referred to in this section as the “QuICC”).

(b) PURPOSE.—The purpose of the QuICC is to coordinate health care quality improvement efforts across all Federal agencies involved in purchasing, providing, studying, or regulating health care services in order to achieve the common goal of improving patient health outcomes.

(c) ORGANIZATION OF THE QUICC.—

(1) CO-CHAIRPERSONS.—The Director of National Health Care Quality (referred to in this section as the “Director”) and the Secretary of Health and Human Services shall serve as co-chairpersons of the QuICC, and the Director shall manage day-to-day operations of the QuICC.

(2) FEDERAL MEMBERS.—The Federal members of the QuICC, each of whom shall have equal standing in the QuICC, shall include—

(A) the Administrator of the Centers for Medicare & Medicaid Services;

(B) the Director of the National Institutes of Health;

(C) the Director of the Centers for Disease Control and Prevention;

(D) the Commissioner of Food and Drugs;

(E) the Administrator of the Health Resources and Services Administration;

(F) the Director of the Agency for Healthcare Research and Quality;

(G) the Assistant Secretary of the Administration for Children and Families;

(H) the Secretary of Labor;

(I) the Secretary of Defense;

(J) the Secretary of Veterans Affairs;

(K) the Under Secretary for Health of the Veterans Health Administration;

(L) the Secretary of Commerce;

(M) the Director of the Office of Personnel Management;

(N) the Director of the Office of Management and Budget;

(O) the Commandant of the United States Coast Guard;

(P) the Director of the Federal Bureau of Prisons;

(Q) the Administrator of the National Highway Traffic Safety Administration;

(R) the Chairman of the Federal Trade Commission; and

(S) the Commissioner of the Social Security Administration.

(d) GOALS.—The goals of the QuICC shall be to achieve the following:

(1) Collaboration between Federal departments and agencies with respect to developing goals, models, and timetables that are consistent with—

(A) reducing the underlying causes of illness, injury, and disability;

(B) reducing health care errors;

(C) ensuring the appropriate use of health care services;

(D) expanding research on effectiveness of treatments;

(E) addressing over-supply and under-supply of health care resources; and

(F) increasing patient participation in their care.

(2) Collaboration between Federal departments and agencies with respect to the development and utilization of quality improvement strategies, including quality measurement, for public sector programs that are flexible enough to respond to changing health care needs, technology, and infor-

mation, while being sufficiently standardized to be comparably measured.

(3) Cooperation between Federal departments and agencies in the development and dissemination of evidence-based health care information to help guide practitioners’ actions in ways that will improve quality and potentially reduce costs.

(4) Cooperation between Federal departments and agencies in the development and dissemination of user-friendly information for both consumer and business purchasers that facilitates meaningful comparisons of quality performances of health care plans, facilities and practitioners.

(5) Consultation with multi-stakeholder groups, where appropriate, in order to develop interdepartmental and interagency models for quality improvement.

(6) Avoidance of inefficient duplication of ongoing health care quality improvement efforts and resources, where feasible and appropriate.

(7) Coordination and implementation by Federal departments and agencies of a streamlined process for quality reporting and compliance requirements to reduce administrative burdens on private entities who administer, oversee, or participate in the Federal health programs.

(e) WORKGROUPS.—

(1) IN GENERAL.—Not later than 30 days after the establishment of the QuICC, the Director shall establish within the QuICC workgroups for each of the national health care priorities established under section 4(c)(1).

(2) PURPOSE.—Each such workgroup shall focus on achieving the goals of the QuICC (described in subsection (d)) for one such priority and shall—

(A) coordinate the implementation of such priority across all relevant Federal agencies and departments; and

(B) identify opportunities to improve the process of implementing such health care priority.

(3) MEMBERSHIP.—

(A) LEADERSHIP.—Each workgroup shall be led by 2 relevant Federal departments or agencies, as determined by the Director.

(B) REPRESENTATION.—Each of the Federal members listed in subsection (c)(2) may appoint 1 or more representatives to each workgroup.

(4) REPORTING.—

(A) REPORT.—Not later than December 31, 2010, and annually thereafter, the co-chairpersons of the QuICC shall submit a report to the relevant committees of Congress describing—

(i) the QuICC’s progress in meeting the goals described in subsection (d);

(ii) recommendations for legislation to improve the processes of health care quality coordination and prioritization; and

(iii) recommendations for new and innovative quality initiatives.

(B) PUBLICATION.—Not later than December 31, 2010, and annually thereafter, the co-chairpersons shall publish the report described in subparagraph (A) on the website of the Office of National Health Care Quality Improvement.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for fiscal years 2011 through 2014.

**SEC. 6. INCREASED AUTHORITY OF THE AGENCY FOR HEALTHCARE RESEARCH AND QUALITY WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.**

(a) DIRECTOR OF THE AGENCY FOR HEALTHCARE RESEARCH AND QUALITY.—Section 901(a) of the Public Health Service Act (42 U.S.C. 299(a)) is amended by striking “by the Secretary” and inserting “by the Presi-

dent, by and with the advice and consent of the Senate”.

(b) NATIONAL HEALTH CARE QUALITY PRIORITIES.—Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended by adding at the end the following:

**“PART E—NATIONAL HEALTH CARE QUALITY PRIORITIES**

**“SEC. 940. DEFINITIONS.**

“In this part:

“(1) HEALTH CARE QUALITY.—The term ‘health care quality’ means the degree to which health services for individuals and populations increase the likelihood of desired health outcomes and are consistent with current professional knowledge, based upon the following criteria:

“(A) EFFECTIVENESS.—Health care services should be provided based upon scientific knowledge of all who could benefit.

“(B) EFFICIENCY.—Waste, including waste of equipment, supplies, ideas, and energies, should be avoided.

“(C) EQUITY.—The provision of health care should not vary in quality because of personal characteristics of the individuals involved.

“(D) PATIENT-CENTEREDNESS.—Health care should be responsive to, and respectful of, individual patient preferences.

“(E) SAFETY.—Injuries to patients from the health care that is supposed to help them should be avoided.

“(F) TIMELINESS.—Waiting times and harmful delays in providing health care should be reduced.

“(2) HEALTH CARE QUALITY MEASURE.—The term ‘health care quality measure’ means a national consensus standard for measuring the performance and improvement of population health or of institutional providers of services, physicians, and other clinicians in the delivery of health care services, consistent with the health care quality criteria described in paragraph (1).

“(3) MULTI-STAKEHOLDER GROUP.—The term ‘multi-stakeholder group’ means, with respect to a health care quality measure, a voluntary collaborative of public and private organizations representing persons interested in, or affected by, the use of such health care quality measure, including—

“(A) health care providers and practitioners, including providers and practitioners primarily serving children and those with long-term health care needs;

“(B) health care quality entities;

“(C) health plans;

“(D) patient advocates and consumer groups;

“(E) employers;

“(F) public and private purchasers of health care items and services;

“(G) labor organizations;

“(H) relevant departments or agencies of the United States;

“(I) biopharmaceutical companies and manufacturers of medical devices; and

“(J) licensing, credentialing, and accrediting bodies.

“(4) the term ‘health care quality measure’ means a national consensus standard for measuring the performance and improvement of population health or of institutional providers of services, physicians, and other clinicians in the delivery of health care services; and

“(5) the term ‘multi-stakeholder group’ means, with respect to a health care quality measure, a voluntary collaborative of public and private organizations representing persons interested in, or affected by, the use of such health care quality measure, including—

“(A) hospitals and other health care settings;

“(B) physicians, including pediatricians;

“(C) health care quality alliances;  
 “(D) nurses and other health care practitioners;  
 “(E) health plans;  
 “(F) patient advocates and consumer groups;  
 “(G) employers;  
 “(H) public and private purchasers of health care items and services;  
 “(I) labor organizations;  
 “(J) relevant departments or agencies of the United States;  
 “(K) biopharmaceutical companies and manufacturers of medical devices; and  
 “(L) licensing, credentialing, and accrediting bodies.

**“SEC. 941. RESEARCH PRIORITIES.**

“The Director, in consultation with the heads of agencies within the Department of Health and Human Services shall ensure that the health care quality improvement priorities identified by the Director of the Office of National Health Care Quality Improvement, established under section 4 of the National Health Care Quality Act, are taken into consideration in all applicable research conducted under the Department of Health and Human Services, including the National Institutes of Health and the demonstration projects.

**“SEC. 942. QUALITY MEASURES.**

“(a) APPLICATION OF QUALITY MEASURES TO PROGRAMS UNDER THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—

“(1) IN GENERAL.—The Director, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, and a consensus-based entity (as such term is used in section 1890 of the Social Security Act), shall define uniform health care quality measures, which shall apply to Federal health programs under the Department of Health and Human Services, including the following Federal programs, in order of priority:

“(A) The Medicare program under title XVIII of the Social Security Act, the rural health and pharmacy programs of the Health Resources and Services Administration, and the health programs of the Administration on Aging.

“(B) The Medicaid program under title XIX of the Social Security Act, the Children’s Health Insurance program under title XXI of such Act, the health programs of the Administration for Children and Families, and the maternal and child health programs of the Health Resources and Services Administration.

“(C) The Indian Health Service.

“(D) The Substance Abuse and Mental Health Services Administration.

“(E) Programs of the Health Resources and Services Administration other than those described in subparagraph (B).

“(F) Centers of the Food and Drug Administration.

“(2) PRIORITIZATION.—The Director shall apply the health care quality measures under this section to the Federal programs in the order of priority described in paragraph (1).

“(3) CONSIDERATIONS REGARDING QUALITY MEASURE APPLICATION.—Before applying the health care quality measures described in paragraph (1), the Director shall consider—

“(A) the potential of such measures to improve patient outcomes;

“(B) the ease of integration as a factor in health care provider reimbursement;

“(C) the applicability of such measures across health care settings;

“(D) the unique quality improvement needs of vulnerable populations, including children, the elderly, individuals with dis-

abilities, individuals near the end of life, and racial and ethnic minorities;

“(E) the burden of disease, including the prevalence, incidence, and cost of disease to the United States; and

“(F) payment distortions that encourage certain practice norms which may not lead to greater patient health outcomes.

“(4) UPDATING OF THE APPLICATION OF QUALITY MEASURES.—The Director, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, and a consensus-based entity (as such term is used in section 1890 of the Social Security Act), shall develop a process for updating the health care quality measures defined under paragraph (1) as new research and evidence become available.

“(b) QUALITY MEASURE REPORTING TO FEDERAL HEALTH PROGRAMS.—The Director, in cooperation with the Administrator of the Centers for Medicare & Medicaid Services, the National Coordinator for Health Information Technology, the Administrator of the Health Resources and Services Administration, the Director of the Centers for Disease Control and Prevention, and the Commissioner of Food and Drugs, shall create a streamlined process for health care providers to report quality measures to the heads of relevant agencies and departments for the purpose of quality improvement in the Federal health programs described in subsection (a)(1).

“(c) DEVELOPMENT OF ADDITIONAL QUALITY IMPROVEMENT STRATEGIES.—The Director, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, and multi-stakeholder groups, shall develop quality improvement strategies to address activities other than health care quality measurement that lead to improved patient outcomes, such as alternative care models, licensing, professional certification, medical education, alternative staffing models, and public reporting.

**“SEC. 943. PUBLIC EDUCATION CAMPAIGNS.**

“(a) IN GENERAL.—The Director shall conduct a public education campaign, designed to educate health care providers and consumers of health care about health care quality improvement.

“(b) CONSUMER EDUCATION CAMPAIGNS.—

“(1) IN GENERAL.—The Director, in coordination with the Administrator of the Centers for Medicare & Medicaid Services and the Director of the Centers for Disease Control and Prevention, shall create a consumer education campaign to develop accurate and reliable information about health care quality. In compiling the information for the consumer education campaign, the Secretary may use mechanisms and sources of information that are available through other Federal agencies.

“(2) REQUIREMENTS.—The consumer education campaign shall include information regarding—

“(A) the importance of quality in health care decisions;

“(B) the ways in which health care experts define and identify quality in health care;

“(C) the variance of quality among health insurance plans, health care facilities, health care organizations, and health care providers; and

“(D) the role of consumers in improving the quality of health care.

“(3) PUBLICATION.—The Director shall make the information described in paragraph (1) available to the public through the Internet.

“(4) GRANT PROGRAM.—The Director shall award grants to States and private nonprofit organizations to assist with the creation and dissemination of the information described in paragraph (1).

“(c) QUALITY RESOURCE CENTER FOR HEALTH CARE PROVIDERS.—

“(1) IN GENERAL.—The Director, in coordination with the Administrator of the Centers for Medicare & Medicaid Services, shall create a National Quality Resource Center (referred to in this subsection as the ‘NQRC’) for health care providers to assist with the understanding and implementation of quality improvement initiatives for health care providers.

“(2) DUTIES.—The national resource center developed under paragraph (1) shall—

“(A) inform providers about quality improvement techniques and the value of such techniques to improving quality;

“(B) accelerate the transfer of lessons learned from other initiatives in the public and private sectors, including those initiatives receiving Federal financial support;

“(C) provide a forum for exchange of knowledge and experience among health care providers;

“(D) provide technical assistance to health care providers for implementing quality improvement efforts; and

“(E) provide a forum for feedback from health care providers concerning the effect of the efforts under subparagraphs (A) through (D).

“(3) NATIONAL QUALITY SUPPORT EXTENSION GRANT PROGRAM.—

“(A) IN GENERAL.—The Director, in coordination with the NQRC, shall award National Quality Support Extension grants (referred to in this paragraph as ‘NQSE grants’ or the ‘NQSE grant program’), on a competitive basis, to eligible entities for the purpose of supporting and facilitating local health care quality improvement efforts throughout the United States.

“(B) PURPOSES.—The purposes of the NQSE grant program are—

“(i) to assist qualified eligible entities in carrying out projects related to health care quality improvement activities among the provider community to help test and acclimate to new, innovative quality improvement activities;

“(ii) to facilitate communication among local health care quality groups regarding the best practices in the area of quality improvement and prevention in the clinical setting; and

“(iii) to enable, empower, support, and assist local health care quality improvement efforts, particularly those that facilitate collaboration between independent providers.

“(C) ELIGIBLE ENTITIES.—An entity desiring a grant under this paragraph shall—

“(i) be a public or private nonprofit entity engaged in health care quality improvement;

“(ii) submit to the Director a program design that describes the purpose of the plan for which the entity seeks a grant and the community leadership that will support the entity in carrying out such plan; and

“(iii) submit to the Director an application at such time, in such manner, and containing such information as the Director may require.

“(4) IMPLEMENTATION ASSISTANCE.—The Health Information Technology regional extension centers under section 3012(c) shall operate as extension centers for the NQRC, for the purposes of implementation assistance.

“(5) TECHNICAL ASSISTANCE FOR HEALTH CARE PROVIDERS WORKING WITH VULNERABLE POPULATIONS.—In carrying out this subsection, the Director shall give particular attention to the technical assistance that

health care providers who serve vulnerable populations need.

**“SEC. 944. FUNDING.**

“(a) TRUST FUNDS.—For purposes of funding the activities under this part, the Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t), including the Medicare Prescription Drug Account in such Trust Fund, in such proportion as determined appropriate by the Secretary, of \$150,000,000 for each of fiscal years 2010 through 2014.

“(b) AMERICAN RECOVERY AND REINVESTMENT FUNDS.—At the end of the recession adjustment period (as defined in section 5001(h)(3) of the American Recovery and Reinvestment Act (Public Law 111-5; 123 Stat. 496), the Secretary of the Treasury shall transfer any funds appropriated under such Act and not otherwise expended to the Agency for purposes of carrying out this part.

“(c) MEDICAID AND MEDICARE IMPROVEMENT FUNDS.—For purposes of funding the activities under this part for fiscal year 2014, the Secretary shall provide for the transfer of \$100,000,000 from the Medicaid Improvement Fund under section 1898 of the Social Security Act (42 U.S.C. 1395iii), and \$100,000,000 from the Medicare Improvement Fund under section 1941 of such Act (42 U.S.C. 1396w-1).”

(c) TECHNICAL AMENDMENT.—Section 937(b) of the Public Health Service Act (42 U.S.C. 299c-6(b)) is amended by inserting “except for part E,” after “this title”.

(d) DEVELOPMENT OF QUALITY MEASURES FOR FEDERAL HEALTH PROGRAMS.—

(1) PERIOD OF CONTRACT.—Section 1890(a)(3) of the Social Security Act (42 U.S.C. 1395aaa(a)(3)) is amended—

(A) by striking “4 years” and inserting “4 years, in the case of the first contract entered into under such paragraph, and 3 years in the case of each subsequent contract entered into under such paragraph”; and

(B) by inserting “for a period of 3 years” after “renewed”.

(2) PRIORITY SETTING PROCESS.—Section 1890(b)(1) of the Social Security Act (42 U.S.C. 1395aaa(b)(1)) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking “an integrated national strategy and priorities for”; and

(ii) by inserting “in a manner consistent with the national priorities for health care quality improvement (as defined in section 4(c)(1))” after “settings”;

(B) in subparagraph (A)—

(i) by redesignating clauses (i) through (iii) as clauses (ii) through (iv), respectively; and

(ii) by inserting before clause (ii), as so redesignated, the following new clause:

“(i) that are consistent with such national priorities for health care quality improvement;”

(3) ANNUAL REPORT TO CONGRESS.—Section 1890(b)(5) of the Social Security Act (42 U.S.C. 1395aaa(b)(5)) is amended—

(A) by redesignating clauses (i) through (iii) as clauses (ii) through (iv); and

(B) by inserting before clause (ii), as so redesignated, the following new clause:

“(i) the extent to which the priorities set and the quality improvement measures endorsed by the entity under paragraphs (1) and (2), respectively, are consistent with the national priorities for health care quality improvement (as so defined);”

(4) FUNDING.—Section 1890(d) of the Social Security Act (42 U.S.C. 1395aaa(d)) is amended by inserting “and, for purposes of carrying out this section under a new or renewed contract, there are authorized to be

appropriated such sums as are necessary, taking into consideration the results of the study contained in the 18 month report submitted to Congress under section 183(b)(2) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), for each of fiscal years 2013 through 2015” before the period at the end.

**SEC. 7. REPORTS TO CONGRESS.**

(a) EVALUATION OF THE CONSUMER EDUCATION CAMPAIGN.—Not later than 18 months after the establishment of the quality resource center under section 943(c) of the Public Health Service Act (as added by section 6), the Comptroller General of the United States shall submit to Congress a report describing—

(1) the effectiveness of the quality resource center for health care providers under such section 943(c); and

(2) the effectiveness of the consumer education program under section 943(b) of such Act (as added by section 6).

(b) QUALITY DISSEMINATION STRATEGIES.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the Agency for Healthcare Research and Quality, shall submit a report to Congress that includes—

(1) a description of the efforts made to translate clinical information regarding health care quality improvement into reasonable clinical practice;

(2) the processes through which the Secretary disseminated the information described in paragraph (1); and

(3) recommendations for the most effective methods for translating and disseminating information concerning health care quality, and required statutory changes to implement the recommended methods.

(c) IOM REPORT TO CONGRESS REGARDING THE VALUE OF QUALITY MEASURE REPORTING.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract with the Director of the Institute of Medicine requiring that, not later than 18 months after the date of enactment of this Act, the Director submit to Congress a report regarding the value of quality measure reporting in improving patient health outcomes.

(2) CONSIDERATIONS.—In preparing the report described in paragraph (1), the Director of the Institutes of Medicine shall consider—

(A) specific instances in the history of existing public health care programs within the Federal Government in which quality measure reporting has been shown, through peer-reviewed studies or literature, to result in improved patient health outcomes; and

(B) instances in which quality measure reporting has been shown to improve existing health disparities among vulnerable populations, including children, underserved populations, rural populations, individuals with disabilities, the elderly, and racial and ethnic minorities.

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

(d) GAO STUDY AND REPORTS.—Section 183(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275; 122 Stat. 2586) is amended—

(1) in subparagraph (A), by striking “and” after the semicolon;

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

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

“(C) any negative effect on patients, particularly on patients in underserved or vulnerable populations; and

“(D) any negative effect on health care providers, particularly health care providers in rural and underserved areas.”

**SEC. 8. DATA COLLECTION.**

(a) IN GENERAL.—Not later than January 1, 2011, and at least every 5 years thereafter, the Comptroller General of the United States (referred to in this section as the “Comptroller General”) shall conduct evaluations of the implementation of the data collection processes for quality measures used by the Federal health programs administered through the Department of Health and Human Services.

(b) CONSIDERATIONS.—In conducting the evaluations under subsection (a), the Comptroller General shall consider—

(1) whether the system for the collection of data for quality measures provides for validation of data in a manner that is relevant, fair, and scientifically credible;

(2) whether data collection efforts under the system—

(A) use the most efficient and cost-effective means in a manner that minimizes administrative burden on persons required to collect data;

(B) adequately protects the privacy the personal health information of patients; and

(C) provides data security;

(3) whether standards under the system provide for an opportunity for health care providers and institutional providers of services to review and correct any inaccuracies with regard to the findings; and

(4) the extent to which quality measures—

(A) assess outcomes and the functional status of patients;

(B) assess the continuity and coordination of care and care transitions, including episodes of care, for patients across providers and health care settings;

(C) assess patient experience and patient engagement;

(D) assess the safety, effectiveness, and timeliness of care;

(E) assess health disparities, including disparities associated with race, ethnicity, age, gender, place of residence, or language;

(F) assess the efficiency and use of resources in the provision of care;

(G) are designed to be collected as part of health information technologies supporting better delivery of health care services; and

(H) result in direct or indirect costs to users of such measures.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$1,000,000 for fiscal years 2010 through 2014.

By Mr. BINGAMAN:

S. 967. A bill to amend the Energy Policy and Conservation Act to create a petroleum product reserve, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I am pleased to introduce The Strategic Petroleum Reserve Modernization Act of 2009. This bill will ensure that the Strategic Petroleum Reserve will continue to fulfill the goal that its creators envisioned for it in 1975, which is to protect Americans from the economic consequences of oil supply disruptions.

This bill includes two key provisions. First, it creates a refined petroleum product component within the existing SPR. The Department of Energy is required to hold at least 30 million barrels of the total 1 billion barrel SPR inventory in refined petroleum products, such as gasoline and diesel fuel.

In the 1970s, the U.S. was vulnerable to supply disruptions in crude oil, as it was a significant and growing importer of crude oil. In 1973, major oil exporting nations embargoed oil exports to the United States in retaliation for U.S. support for Israel during that year's Arab-Israeli War. The embargo and resulting oil price spikes wreaked havoc on the U.S. economy. Preventing a recurrence of this kind of geopolitical oil supply disruption was the primary goal of the SPR. Because the country then held significant surplus refinery capacity, SPR managers decided to hold only crude oil in the SPR.

In 2009, our domestic oil market has changed. While we are more dependent on imported crude oil than ever before, we also import more refined petroleum products and have considerably less spare refinery capacity. When U.S. refinery operations are disrupted, we require imported products from other countries to fill the gap.

We have also learned in the last 34 years that weather-related events are the most frequent source of oil supply disruptions. In history, the SPR has been used in connection with only one geopolitical event, during the 1990–1991 Iraqi invasion of and removal from Kuwait, while it has been used several times in response to hurricanes or other weather events, such as dense fog halting tanker traffic in the Houston Ship Channel.

These more frequent weather events are usually as disruptive, if not more disruptive, to U.S. refinery operations as to crude oil production and imports. Hurricanes Gustav and Ike in September 2008 took much of the U.S. Gulf Coast infrastructure offline, and shortages of gasoline and diesel were experienced throughout the Southeast through October of that year. The SPR was of limited use in mitigating these shortages because the refineries affected by the storms were not able to process SPR crude oil into gasoline and diesel.

Including a small volume of refined petroleum products in the SPR, as required by The Strategic Petroleum Reserve Modernization Act of 2009, would provide a cushion to affected markets while damaged infrastructure were brought back online, or until imported gasoline and diesel could arrive to service the area.

The second key provision included in the Strategic Petroleum Reserve Modernization Act of 2009 authorizes the Secretary of Energy to release emergency oil from the SPR. Under current law, only the President of the United States can authorize an emergency sale of SPR oil. Experts believe that this requirement creates a disincentive to use SPR oil for the purposes for which it is intended, as the President does not want to alarm the public by announcing that the country is in an oil supply emergency.

Moving the SPR drawdown authority to the Secretary of Energy would allow SPR policy decisions to be made closer

to the oil markets that the SPR serves. I believe that many of my colleagues share my disappointment that recent discussions about when and how to use the SPR have become so political that sound decisions, based on the reality of our country's oil market, have not been possible.

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

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

S. 967

*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 "Strategic Petroleum Reserve Modernization Act of 2009".

**SEC. 2. PETROLEUM PRODUCT RESERVE.**

(a) STRATEGIC PETROLEUM RESERVE.—Section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234(a)) is amended by striking "1 billion barrels of petroleum products" and inserting "1,000,000,000 barrels of petroleum products (including at least 30,000,000 barrels of refined petroleum products)".

(b) PLAN.—Title I of the Energy Policy and Conservation Act is amended by inserting after section 154 (42 U.S.C. 6234) the following:

**"SEC. 155. PLAN.**

"Not later than 180 days after the date of enactment of this section, the Secretary shall submit to the President and, if the President approves, to Congress, a plan to include refined petroleum products in the Strategic Petroleum Reserve, including a description of—

"(1) the disposition of refined petroleum products that shall be stored in the Reserve, which shall be selected—

"(A) to alleviate shortages that might be expected to result from hurricanes, earthquakes, or other acts of nature; and

"(B) to minimize the number of different kinds of refined petroleum products that shall be stored;

"(2) the method of acquisition of refined petroleum products for storage in the Reserve, which shall—

"(A) be intended to minimize both the cost and market disruption associated with the acquisition; and

"(B) include—

"(i) an analysis of the option of exchanging crude oil from the Reserve for refined petroleum products; and

"(ii) the anticipated time requirement for building the inventory of refined petroleum products;

"(3) storage facility options for the storage of refined petroleum products, including the anticipated location of existing or new facilities;

"(4) the estimated costs of establishment, maintenance, and operation of the refined petroleum product component of the Reserve;

"(5) efforts the Department will take to ensure that distributors and importers are not discouraged from maintaining and increasing supplies of refined petroleum products; and

"(6) actions that will be taken to ensure quality of refined petroleum products in the Reserve, including the rotation of products stored."

(c) DRAWDOWN AND SALE.—Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended—

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

"(d) LIMITATION ON DRAWDOWN AND SALE.—

"(1) IN GENERAL.—The drawdown and sale of petroleum products from the Strategic Petroleum Reserve may not be made unless the Secretary determines that—

"(A) the drawdown and sale are required by—

"(i) a severe energy market supply interruption; or

"(ii) obligations of the United States under the international energy program; or

"(B) in the case of the refined petroleum product component of the Reserve, a sale of refined petroleum products will mitigate the impacts of weather-related events or other acts of nature that have resulted in a severe energy market disruption.

"(2) SEVERE ENERGY MARKET DISRUPTION.—For purpose of this subsection, a severe energy market supply disruption shall be considered to exist if the Secretary determines that—

"(A) an emergency situation exists and there is a disruption in global oil markets of significant scope and duration;

"(B) a severe increase in the price of petroleum products has resulted, or is likely to result, from the emergency situation; and

"(C) the price increase is likely to cause a major adverse impact on the national economy.";

(2) in subsections (h)(1) and (i), by striking "President" each place it appears and inserting "Secretary".

By Mr. REID (for himself, Mr. PRYOR, Mrs. MURRAY, Mr. MENENDEZ, and Mr. BENNET):

S. 968. A bill to award competitive grants to eligible partnerships to enable the partnerships to implement innovative strategies at the secondary school level to improve student achievement and prepare at-risk students for postsecondary education and the workforce; to the Committee on Health, Education, Labor, and Pensions.

Mr. REID. Mr. President, in our global economy, a high school diploma has become the minimum qualification necessary for a good job. Yet only about a third of the students who enter 9th grade each fall will graduate 4 years later prepared for college or the workforce.

Another third will leave high school with a diploma, but without the skills and knowledge they need to succeed. Yet another third will not graduate from high school within four years, if at all.

This trend, across thousands of our Nation's schools, robs millions of young Americans—particularly poor and minority students—of their best chances to succeed.

Students in Nevada are hit particularly hard. Less than 70 percent of high school students in my home state graduate on time. For African American and Latino students, that number is closer to 50 percent. Nearly 20,000 students in Nevada who started school with the class of 2008 did not graduate with their peers.

Leaving these students behind hurts our economy in both the short- and long-run. These students will cost the State's economy an estimated \$5.1 billion in lost wages over the course of

their lifetimes, and will earn an average of almost \$10,000 less each year compared to their classmates who finished high school.

Almost 90 percent of the fastest-growing and best-paying jobs require some postsecondary education. We can no longer afford to ignore our unacceptable graduation rates. We can no longer afford to look the other way while more and more students remain unprepared to compete in the global economy. It is not right for these students, and it is not right for our economy.

That is why Senators MURRAY and PRYOR and I are introducing the Secondary School Innovation Fund, a bill to improve the education our students get in America's secondary schools. Our future competitiveness depends on our ability to transform our Nation's middle- and high-schools to meet the needs of the 21st century. This legislation aims to address some of these challenges.

Many of our high schools are too large and impersonal. They lack the rigor and high expectations that we must set for all of our students. Of course, many of the problems that lead students to lose interest or drop out of school begin at the middle-school level.

To meet the challenges of this economy and prepare our young people for life after high school, we must give our middle and high schools the opportunity to try new ideas and approaches that will improve students' performance and their graduation rates.

We must take proven ideas and put them in the schools that need them the most like extending the school day or year; dividing large urban schools into smaller, more personal learning academies; expanding summer learning opportunities for middle-school students; or partnering schools with colleges and universities to allow high school students to take and receive credit for college-level courses.

The good news is that schools throughout my home state of Nevada, and across the country, have already started implementing these sorts of innovative strategies:

The Clark County Schools District in southern Nevada—the Nation's 5th largest and one of the fastest growing—has opened some of the most cutting-edge career and technical academies in the country. With programs in engineering and design, medical occupations, and media communications, a visitor to one of these new academies might think they were on a university campus.

In northern Nevada, the Washoe County School District has teamed up with one of the local community colleges. The Truckee Meadows Community College High School now allows students to take a combination of college and high school courses, and they get credit on both levels. Not only do these students complete more challenging, college-level coursework, but they are laying the groundwork for success after high school.

Encouraging our secondary schools to meet new, demanding and competitive requirements requires replicating these types of school models. But they need adequate Federal support to do so. The Secondary School Innovation Fund gives them just that.

President Obama and Secretary Duncan know this as well. The budget we passed last week proposes a similar fund that would promote innovation and excellence in America's schools. And the economic recovery plan that we passed earlier this year includes unprecedented funding for improving and reforming our education systems. It also creates a \$5 billion "Race to the Top Fund" that rewards states and districts for innovation.

This bill would give states, districts, schools, institutes of higher education, businesses and community-based organizations \$500 million in competitive grants in each of the next 6 years to reform in our Nation's secondary schools. By supporting a variety of strategies for innovation and creating evidence-based, systemic and replicable models of reform, we will improve student achievement and prepare them to succeed in school and then in the workforce.

We also know that every dollar we spend belongs to the American people. That is why we will only help programs that can demonstrate that their students are improving.

Democrats are committed to expanding educational opportunities for all Americans and preparing them to succeed in the global economy. We must give them the best chance to achieve their full potential, and this bill will help make that possible. I hope my colleagues will join me in supporting this legislation.

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

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

S. 968

*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 "Secondary School Innovation Fund Act".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Since almost 90 percent of the fastest growing and best paying jobs now require some postsecondary education, a secondary school diploma and the skills to succeed in postsecondary education and the modern workplace are essential.

(2) Only 1/3 of all high school students in the United States graduate in 4 years prepared for a 4-year institution of higher education. Another 1/3 graduate, but without the skills and qualifications necessary for success in postsecondary education or the workplace, and the rest will not graduate from high school in 4 years, if at all.

(3) Dropouts from the class of 2008 will cost the United States more than \$319,000,000,000 in reduced earnings.

(4) The Nation's failure to meet the increasing demand for skilled workers means

that American companies cannot fill a large number of jobs. 81 percent of American manufacturing companies report experiencing a moderate to severe shortage of qualified workers.

(5) The education system of the United States should support critical thinking, creativity, and innovative approaches to problem-solving—all skills that cannot easily be outsourced. The Program for International Student Assessment is an international assessment that measures these high-demand skills. Unfortunately, when the results on this assessment of students from the United States are compared to those of students from 27 other countries, many of which are economic competitors of the United States, the United States students rank 24th in problem-solving, 21st in scientific literacy, and 25th in mathematical literacy.

(6) As the bar for success continues to be raised, the responsibility to engender these attributes with progressive programs and original models lies squarely with the education system. It is imperative that the United States develop and implement new, innovative approaches to fully prepare every student for the 21st century.

(7) Realigning the education system to meet new, demanding requirements and face intensifying competition requires effective, systemic reform. Identifying effective, replicable models that achieve this goal is a critical step towards enhancing the prospects of all students entering the modern workforce.

#### SEC. 3. SECONDARY SCHOOL INNOVATION FUND.

(a) SECONDARY SCHOOL INNOVATION FUND.—Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

- (1) by redesignating part I as part J; and
- (2) by inserting after section 1830 the following:

#### "PART I—SECONDARY SCHOOL INNOVATION FUND

##### "SEC. 1851. PURPOSES.

"The purposes of this part are—

"(1) to improve the achievement of at-risk secondary school students and prepare such students for postsecondary education and the workforce;

"(2) to create evidence-based, replicable models of innovation in secondary schools at the State and local level; and

"(3) to support partnerships to create and inform innovation at the State and local level to improve learning outcomes and transitions for secondary school students.

##### "SEC. 1852. DEFINITIONS.

"In this part:

"(1) ELIGIBLE PARTNERSHIP.—The term 'eligible partnership' means a partnership that includes—

"(A) not less than 1—

"(i) State educational agency; or

"(ii) local educational agency that is eligible for assistance under part A; and

"(B) not less than 1—

"(i) institution of higher education;

"(ii) nonprofit organization;

"(iii) community-based organization;

"(iv) business; or

"(v) school development organization or intermediary.

"(2) ELIGIBLE SCHOOL.—The term 'eligible school' means a public secondary school served by a local educational agency that is eligible for assistance under part A.

"(3) HIGH SCHOOL.—The term 'high school' means a public school, including a public charter high school, that provides secondary education, as determined under State law, in 1 or more of grades 9 through 12.

"(4) MIDDLE SCHOOL.—The term 'middle school' means a public school, including a public charter middle school, that provides

middle or secondary education, as determined under State law, in 1 or more of grades 5 through 8.

**“SEC. 1853. SECONDARY SCHOOL INNOVATION FUND.**

“(a) PROGRAM AUTHORIZED.—

“(1) GRANTS TO ELIGIBLE PARTNERSHIPS.—The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to enable the eligible partnerships to pay the Federal share of the costs of implementing innovative strategies described in subsection (f) to improve the achievement of at-risk students in secondary schools.

“(2) SUBGRANTS TO ELIGIBLE SCHOOLS.—An eligible partnership that receives a grant under this part may use the grant funds to award a subgrant to an eligible school to enable the eligible school to implement innovative strategies described in subsection (f) to improve the achievement of at-risk students at the eligible school.

“(3) DURATION OF GRANT PERIOD.—A grant awarded under paragraph (1) shall be for not longer than a 5-year period.

“(b) RESERVATION OF FUNDS.—The Secretary shall reserve 5 percent of the amounts appropriated under this part for a fiscal year for the evaluation described in subsection (h).

“(c) APPLICATION.—

“(1) IN GENERAL.—An eligible partnership desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(2) CONTENTS.—The application described in paragraph (1) shall include—

“(A) a description of the eligible partnership, the partners forming the eligible partnership, and the roles and responsibilities of each partner, and a demonstration of each partner’s capacity to support the outlined roles and responsibilities;

“(B) a description of how funds will be used to improve the achievement of at-risk students in secondary schools;

“(C) a description of how the activities funded by the grant will be innovative, systemic, evidence-based, and replicable;

“(D) a description of each subgrant the eligible partnership will award to an eligible school, including a description of the eligible school;

“(E) a description of how the eligible partnership will measure and report improvement using the data collected under subsection (g) and additional indicators of improvement proposed by the partnership, such as—

“(i) student attendance or participation;

“(ii) credit accumulation rates;

“(iii) core course completion rates;

“(iv) college enrollment and persistence rates; or

“(v) number or percentage of students taking—

“(I) Advanced Placement (AP), International Baccalaureate (IB), or other postsecondary education courses;

“(II) rigorous postsecondary education preparatory courses; or

“(III) registered apprenticeship and workforce training programs; and

“(F) a description of the planning phase of not more than 90 days that the eligible partnership will undertake for the grant, including—

“(i) the activities and goals of the planning phase; and

“(ii) how each partner in the eligible partnership will participate in the planning phase.

“(d) APPLICATION REVIEW AND AWARD BASIS.—

“(1) GRANT REVIEW AND APPROVAL.—The Secretary shall—

“(A) establish a peer review process to assist in the review of the grant applications and approval of the grants under this section; and

“(B) appoint to the peer review process—

“(i) individuals who are educators and experts in—

“(I) secondary school reform;

“(II) accountability;

“(III) secondary school improvement;

“(IV) innovative education models;

“(V) postsecondary education preparation and access; and

“(VI) workforce preparation;

“(ii) not less than 1 parent or community representative; and

“(C) ensure that each grant award is of sufficient size and scope to carry out the activities proposed in the grant application, including the evaluation required under subsection (g)(3).

“(2) AWARD BASIS.—In awarding grants under this part, the Secretary shall ensure, to the extent practicable—

“(A) diversity in the type of activities funded under the grants, including statewide and local initiatives;

“(B) an equitable geographic distribution of the grants, including urban and rural areas and small and large school districts; and

“(C) that the grants support activities—

“(i) that target different grade levels of students at the secondary school level;

“(ii) in a variety of types of secondary schools, including middle schools and high schools; and

“(iii) in secondary schools of varying sizes, including small and large schools.

“(e) FEDERAL SHARE, NON-FEDERAL SHARE.—

“(1) FEDERAL SHARE.—The Federal share of a grant under this part shall be not more than 75 percent of the costs of the activities assisted under the grant.

“(2) NON-FEDERAL SHARE.—The non-Federal share shall be not less than 25 percent of the costs of the activities assisted under the grant, of which not more than 10 percent of the costs of the activities assisted under the grant may be provided in-kind, fairly evaluated.

“(f) USE OF FUNDS.—An eligible partnership receiving a grant under this part, or an eligible school receiving a subgrant under this part, shall use grant or subgrant funds, respectively, to carry out 1 or more of the following effective models or innovative programs:

“(1) EFFECTIVE SCHOOL MODELS.—

“(A) MULTIPLE EDUCATION PATHWAYS.—A model creating a range of academically rigorous multiple education pathways, based on the analysis of student data, that lead to a secondary school diploma, that are consistent with readiness for postsecondary education and the workforce, and that offer students a range of educational options designed to meet the students’ needs and interests, including through the creation of new schools. Such pathways may include—

“(i) an effective dropout prevention and recovery model that—

“(I) prepares students for postsecondary education and career readiness;

“(II) uses re-engagement and recuperative strategies based in youth development;

“(III) uses innovative strategies for credit recovery and acceleration, such as flexible hours or online access to curricula, courses, assessments, resources, and supports;

“(IV) provides competency-based instruction and performance-based assessment to improve educational outcomes for various populations of overaged or undercredited students or students who have previously dropped out of secondary school, such as—

“(aa) students not making sufficient progress to graduate with a regular secondary school diploma in the standard number of years;

“(bb) students who need to work to support themselves or their families;

“(cc) pregnant and parenting teens; and

“(dd) students returning from the juvenile justice system; and

“(V) combines rigorous academic education with career training for students that are not making sufficient progress to graduate from secondary school in the standard number of years;

“(ii) a career and technical education program;

“(iii) a career academy or other model that delivers high quality, college preparatory curriculum in the context of a rigorous technical core; and

“(iv) creating a more personalized and engaging learning environment for secondary school students, such as—

“(I) establishing smaller learning communities;

“(II) creating student advisories and developing peer engagement strategies;

“(III) creating mechanisms for increased educator collaboration around individual student needs;

“(IV) involving students and parents in the development of individualized student plans for secondary school success and graduation and transition to postsecondary education; and

“(V) creating mechanisms for increased student participation in school improvement efforts and in decisions affecting the students’ own learning, including students leading guidance activities, mentoring, or tutoring efforts.

“(B) EARLY COLLEGE AND DUAL ENROLLMENT SCHOOLS.—An early college high school or other dual enrollment learning opportunity that provides a course of study that enables a student to earn a secondary school diploma and either an associate degree or not more than 2 years of transferable postsecondary education credit toward a postsecondary degree or credential.

“(C) SECONDARY SCHOOLS USING EARLY WARNING SYSTEMS.—A secondary school that enables at-risk students to graduate from secondary school ready to succeed in postsecondary education and the workforce, through use of an early warning indicator and intervention system that combines—

“(i) research-based whole school reform focused on improving attendance, behavior, and course performance;

“(ii) targeted interventions provided by trained teams of adults working full-time in the school, which may include—

“(I) participants or volunteers under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) or the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.);

“(II) student and family advocates; and

“(III) college and career access and success counselors;

“(iii) integrated student services and case-managed interventions for students requiring intensive supports; and

“(iv) an on-track indicator system to identify students in need of additional support and to monitor the effectiveness of the interventions described in clause (ii).

“(2) INNOVATIVE PROGRAMS.—

“(A) EXPANDED LEARNING-TIME OPPORTUNITIES.—The creation of an expanded learning-time opportunity, which may include—

“(i) establishing a mandatory expanded day, for all students transitioning into the first year of high school, for academic catch-up and enrichment;

“(ii) providing arts, service-learning (as defined in section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511), or youth development opportunities with community-based cultural and civic organizations;

“(iii) providing higher education and work-based exposure, experience, and credit-bearing learning opportunities in partnership with postsecondary education institutions and the workforce;

“(iv) providing technology-enabled collaboration and access for students to receive assistance from content experts, instructors, and peers and to utilize resources for remediation and enrichment; or

“(v) providing quality summer experiences, which may include youth development.

“(B) SUCCESSFUL TRANSITIONS TO HIGH SCHOOL.—A program improving student transitions from middle school to high school and ensuring successful entry into high school, which may include—

“(i) establishing summer transition programs for students transitioning from middle school to high school to ensure the students’ connection to the students’ new high school and to orient the students to the study skills and social skills necessary for success in the high school;

“(ii) providing for the sharing of data between high schools and feeder middle schools;

“(iii) establishing early warning indicator and intervention programs in high school for students transitioning into the students’ first year of high school so that such students do not become truant or fall too far behind in academics;

“(iv) increasing the level of student supports, including academic and nonacademic supports that meet the comprehensive needs of struggling students;

“(v) aligning academic standards, curricula, and assessments between middle and high schools; and

“(vi) providing electronic access to detailed information on student performance and all content and skill areas to students transitioning into high school and their parents.

“(C) SUCCESSFUL TRANSITIONS TO POSTSECONDARY EDUCATION AND THE WORKFORCE.—Improvements to assist student transition from secondary school to postsecondary education and the workforce, which may include—

“(i) providing for the sharing of data between secondary schools and institutions of higher education, including data on remediation and completion rates;

“(ii) enabling dual enrollment and postsecondary credit-bearing learning opportunities;

“(iii) creating new opportunities to better utilize grades 11 and 12 and creating better connections to postsecondary education, which may include internships, externships, job shadowing, and technology-enabled collaboration;

“(iv) providing enhanced planning and counseling for postsecondary education, including financial aid counseling; and

“(v) aligning the academic standards of secondary school with the academic standards of postsecondary education and the requirements and expectations of the workforce, including partnering with local industry to align technical curricula to workforce needs.

“(D) INCREASED SCHOOL AUTONOMY AND FLEXIBILITY.—A program of providing secondary schools with increased autonomy and flexibility, which may include—

“(i) establishing a process whereby existing schools can apply for flexibility in such areas as scheduling, curricula, budgeting, and governance; and

“(ii) starting new small public secondary schools that are guaranteed such autonomy.

“(E) RURAL OPPORTUNITIES.—A program to improve learning opportunities for secondary school students in rural schools, including through the use of distance-learning opportunities and other technology-based tools.

“(F) MIDDLE GRADE IMPROVEMENTS.—A program to improve learning opportunities for students in the middle grades—

“(i) to prevent student disengagement and improve achievement; and

“(ii) to better respond to early warning signs that students are at risk of dropping out of school, such as poor attendance, poor behavior, or course failure, through the use of an early warning indicator system and interventions.

“(G) IMPROVING TEACHING AND ACADEMICS.—A program of improving teaching and increasing academic rigor at the secondary school level, which may include—

“(i) improving the alignment of academic standards with the requirements and expectations of postsecondary education and the workforce;

“(ii) improving the teaching and assessment of 21st century skills, including through the development of formative assessment models;

“(iii) providing high-quality professional development on data literacy, including on use of data to inform classroom instruction;

“(iv) addressing the learning needs of various student populations, including students who are limited English proficient, late entrant English language learners, and students with disabilities; and

“(v) developing value-added measures for use in determining teacher ability and effectiveness, including for use in recruitment and hiring decisions.

“(H) IMPROVED COMMUNITY AND PARENTAL INVOLVEMENT.—A program improving community and parental involvement, which may include—

“(i) increasing community involvement, including leveraging community-based services and opportunities to provide every student with the academic and comprehensive nonacademic supports necessary for academic success; and

“(ii) increasing parental involvement, including providing parents with the tools to navigate, support, and influence their child’s academic career and choices through secondary school graduation and into postsecondary education and the workforce, including through electronic access to student data.

“(g) DATA COLLECTION AND EVALUATION.—

“(1) COLLECTION OF DATA.—Each eligible partnership receiving a grant under this part shall collect and report annually to the Secretary such information on the results of the activities assisted under the grant as the Secretary may reasonably require, including information on—

“(A) the number and percentage of students who—

“(i) are served by the eligible partnership;

“(ii) are assisted under this part; and

“(iii) graduate from secondary school with a regular secondary school diploma in the standard number of years;

“(B) the number and percentage of students, at each grade level, who are—

“(i) served by the eligible partnership;

“(ii) assisted under this part; and

“(iii) on track to graduate from secondary school with a regular secondary school diploma in the standard number of years;

“(C) the number and percentage of students, at each grade level, who—

“(i) are served by the eligible partnership;

“(ii) are assisted under this part; and

“(iii) meet or exceed State challenging student academic achievement standards in mathematics, reading or language arts, or science, as measured by the State academic assessments under section 1111(b)(3);

“(D) information consistent with the additional indicators of improvement proposed by the eligible partnership in the grant application; and

“(E) other information the Secretary may require as necessary for the evaluation described in subsection (h).

“(2) REPORTING OF DATA.—Each eligible partnership receiving a grant under this part shall disaggregate the information required under paragraph (1) in the same manner as information is disaggregated under section 1111(h)(1)(C)(i).

“(3) EVALUATION.—

“(A) IN GENERAL.—Each eligible partnership receiving a grant under this part shall, immediately after the receipt of grant funds, enter into a contract with an outside evaluator to enable the evaluator to conduct—

“(i) an evaluation of the effects of the grant after the third year of implementation of the grant; and

“(ii) an evaluation of the effects of the grant after the final year of the grant period.

“(B) DISTRIBUTION.—Upon completion of an evaluation described in subparagraph (A), the eligible partnership shall submit a copy of the evaluation to the Secretary in a timely manner.

“(h) EVALUATION; BEST PRACTICES.—

“(1) IN GENERAL.—From amounts reserved under subsection (b), the Secretary shall—

“(A) enter into a contract with an outside evaluator to enable the evaluator to conduct—

“(i) a comprehensive evaluation after the third year of implementation on the effectiveness of all grants awarded under this part;

“(ii) a final evaluation following the final year of the grant period—

“(I) with a focus on the improvement in student achievement and the indicators described in subsection (g)(1) as a result of innovative strategies; and

“(II) to the extent practicable, that compares the relative effectiveness of different types of programs and compares the relative effectiveness of variations in implementation within types of programs; and

“(B) disseminate, and provide technical assistance regarding, best practices in improving the achievement of secondary school students.

“(2) PEER REVIEW.—

“(A) IN GENERAL.—An evaluator receiving a contract under this subsection shall—

“(i) establish a peer-review process to assist in the review and approval of the evaluations conducted under this subsection; and

“(ii) appoint individuals to the peer-review process who are educators and experts in—

“(I) research and evaluation; and

“(II) the areas of expertise described in subclauses (I) through (VI) of subsection (d)(1)(B)(i).

“(B) RESTRICTIONS ON USE.—The Secretary shall not distribute or use the results of any evaluation described in paragraph (1)(A) until the results are peer-reviewed in accordance with subparagraph (A).

“(i) CONTINUATION OF FUNDING.—An eligible partnership that receives a grant under this part shall only be eligible to receive a grant payment for a fourth or fifth year of the grant if the Secretary determines, on the basis of the evaluation of the grant under subsection (h)(1)(A)(i), that the performance of the eligible partnership under the grant has been satisfactory.

“(j) RULE OF CONSTRUCTION REGARDING DISCRIMINATION.—Nothing in this section shall be construed to permit discrimination on the

basis of race, color, religion, sex, national origin, or disability in any program or activity funded under this part.

**“SEC. 1854. AUTHORIZATION OF APPROPRIATIONS.**

“There is authorized to be appropriated to carry out this part \$500,000,000 for fiscal year 2010 and for each of the succeeding 5 years.”.

(b) CONFORMING AMENDMENTS.—The table of contents in section 2 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 note) is amended—

(1) by striking the item relating to Part I and inserting the following:

“PART J—GENERAL PROVISIONS”; AND

(2) by inserting after the item relating to section 1830 the following:

“PART I—SECONDARY SCHOOL INNOVATION FUND

“Sec. 1851. Purposes.

“Sec. 1852. Definitions.

“Sec. 1853. Secondary school innovation fund.

“Sec. 1854. Authorization of appropriations.”.

SUBMITTED RESOLUTIONS

**SENATE RESOLUTION 126—COMMEMORATING THE 150TH ANNIVERSARY OF THE ARRIVAL OF THE SISTERS OF THE SACRED HEARTS IN HAWAII**

Mr. INOUE (for himself, Mr. AKAKA, and Mr. KERRY) submitted the following resolution; which was considered and agreed to:

S. RES. 126

Whereas the Sisters of the Sacred Hearts, also known as the Sisters of the Congregation of the Sacred Hearts of Jesus and Mary, in 2009 are celebrating the 150th anniversary of their arrival in Hawaii on May 4, 1859, to provide Catholic education to the children of Hawaii;

Whereas, during the past 150 years, through the devotion and dedication of the Sisters of the Sacred Hearts, thousands of youth in Hawaii, California, Massachusetts, and New Jersey have received the benefit of a well-rounded education based on Christian principles and moral living at the following educational institutions: Sacred Hearts Convent at Fort Street, Honolulu; Sacred Hearts Academy, Kaimuki, Honolulu; St. Anthony Home, Kalihi, Honolulu; Sacred Hearts Convent, Nuuanu, Honolulu; St. Theresa School, Honolulu; Our Lady of Peace School, Honolulu; Immaculate Conception School, Lihue, Kauai; St. Patrick School, Kaimuki, Honolulu; Maria Regina School, Gardena, California; Bishop Amat High School, West Covina, California; Sacred Hearts Academy, Fairhaven, Massachusetts; St. Joseph School, Fairhaven, Massachusetts; Sacred Hearts School, Fairhaven, Massachusetts; and St. Andrew School, Avenel, New Jersey;

Whereas, during the past 101 years, the Sisters of the Sacred Hearts have served communities in Fairhaven, Fall River, and Mt. Rainier, Massachusetts, and in Avenel, New Jersey, and continue to serve communities in Fairhaven, Massachusetts;

Whereas, during the past 50 years, the Sisters of the Sacred Hearts have served communities in Gardena, West Covina, and San Bernardino, California, and in Artesia, New Mexico, and continue to serve communities in Artesia, New Mexico; and

Whereas the people of the United States wish to convey their sincerest appreciation to the Sisters of the Sacred Hearts for their service and devotion: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the 150th anniversary of the arrival of the Sisters of the Sacred Hearts in Hawaii; and

(2) honors and praises the Sisters of the Sacred Hearts Pacific Province for their good works in the education of the youth of the United States and in service to the people of Hawaii, California, Massachusetts, New Jersey, and New Mexico, and for the Sisters' pursuit of educational, social, and economic equality of all persons.

**SENATE RESOLUTION 127—RECOGNIZING THE MEMBERS OF THE UNITED STATES ARMY AND THE PHYSICIANS OF MAINE MEDICAL CENTER FOR THE OPEN-HEART SURGERY THEY PERFORMED ON A 6-YEAR-OLD IRAQI GIRL**

Ms. SNOWE submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 127

Whereas 6-year-old Tiba and her mother, Sareea traveled from the countryside of Iraq to Maine so that Tiba could receive open-heart surgery;

Whereas the bravery of a young child and the phenomenal service of the courageous soldiers in the United States Army are inspiring and place a human face and a human heart at the center of one of the most war-torn areas in the world;

Whereas Kim Block of WGME channel 13 in Portland, Maine professionally produced and broadcast a heartwarming story on this case;

Whereas all of Maine feels a boundless sense of pride for the tremendous commitment and contribution of Dr. Reed Quinn who led the team of physicians at Maine Medical Center in the 8-hour open-heart surgery procedure that saved Tiba's life; and

Whereas such surgery was made possible by the compassion of the Maine Foundation for Cardiac Surgery, and was a mission fulfilled by a team of genuine heroes: Now, therefore, be it

*Resolved*, That the Senate recognizes the soldiers, doctors, nurses, and hospital staff at Maine Medical Center for their compassionate service, and Tiba and Sareea for their remarkable courage.

Ms. SNOWE. Mr. President, today I introduced a Senate Resolution recognizing the United States Army and the physicians of Maine Medical Center for saving the life of a 6-year-old Iraqi girl.

My Maine constituents and I are bursting with pride over the tremendous commitment and contribution of Dr. Reed Quinn and the team of health professionals at Maine Medical Center who recently conducted an eight-hour open heart surgery procedure which saved young Tiba's life. The procedure was made possible by the compassion of the Maine Foundation for Cardiac Surgery, and the mission was fulfilled by a team of genuine American heroes, led by the U.S. Army.

I am particularly touched by the bravery of a young child and the outstanding service of our courageous soldiers in the U.S. Army. I will always remember this story because it places a human face at the center of a war-torn area.

After viewing the moving news series reported by Kim Block of WGME Channel 13 in Portland on “Operation Good

Heart,” I thought it was fitting to recognize the story of 6-year-old Tiba and her mother, Sareea, and their journey from their village in Iraq to Maine. Tiba suffered a dangerous heart condition and was transported by the U.S. Army from Iraq to Maine for life-saving open-heart surgery performed by the talented physicians of Maine Medical Center.

I hope my colleagues will join me in commending the dedicated soldiers of the U.S. Army, the superlative professionals of Maine Medical Center, the generous folks at the Maine Foundation for Cardiac Surgery, the good people of Channel 13, and—above all—the brave mother and daughter who traveled across the globe. This is a heartwarming story about wonderful people who make America great, and I urge adoption of the Resolution.

**AUTHORITY FOR COMMITTEES TO MEET**

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. KAUFMAN. 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 Monday, May 4, 2009, at 5:30 p.m.

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

**COMMEMORATING THE 150TH ANNIVERSARY OF THE ARRIVAL OF THE SISTERS OF THE SACRED HEARTS IN HAWAII**

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 126, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 126) commemorating the 150th anniversary of the arrival of the Sisters of the Sacred Hearts in Hawaii.

There being no objection, the Senate proceeded to consider the resolution.

Mr. INOUE. Mr. President, today, I rise in support of a Senate resolution commemorating the 150th anniversary of the arrival of the Sisters of the Sacred Hearts in Hawaii. I am pleased to have Senators Daniel Akaka and John Kerry as original cosponsors of the resolution.

The first Catholic missionaries to the Hawaiian Islands were members of the Congregation of the Sacred Hearts of Jesus and Mary and of Perpetual Adoration of the Most Blessed Sacrament of the Altar.

The Congregation was founded by Pierre Coudrin and Henriette Aymer de la Chevalerie in Poitiers, France, on Christmas Eve 1800.

In 1825, the Congregation responded to a request of Pope Leo XII for missionaries to the Pacific Rim, then known as Oceania.