COCHRAN) was added as a cosponsor of S. 344, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation, and for other purposes.

S. 387

At the request of Mrs. BOXER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 387, a bill to amend title 37, United States Code, to provide flexible spending arrangements for members of uniformed services, and for other purposes.

S. 388

At the request of Mrs. BOXER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 388, a bill to prohibit Members of Congress and the President from receiving pay during Government shutdowns.

S. 425

At the request of Mr. UDALL of Colorado, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 425, a bill to amend the Public Health Service Act to provide for the establishment of permanent national surveillance systems for multiple sclerosis, Parkinson's disease, and other neurological diseases and disorders.

S. 434

At the request of Mr. COCHRAN, the names of the Senator from Maine (Ms. COLLINS), the Senator from Nebraska (Mr. JOHANNS) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. 434, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

At the request of Ms. MIKULSKI, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 434, supra.

S. CON. RES. 4

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. Con. Res. 4, a concurrent resolution expressing the sense of Congress that an appropriate site on Chaplains Hill in Arlington National Cemetery should be provided for a memorial marker to honor the memory of the Jewish chaplains who died while on active duty in the Armed Forces of the United States.

S. CON. RES. 7

At the request of Mr. BARRASSO, the names of the Senator from Maine (Ms. COLLINS), the Senator from Idaho (Mr. RISCH), the Senator from Mississippi (Mr. WICKER) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. Con. Res. 7, a concurrent resolution supporting the Local Radio Freedom Act.

AMENDMENT NO. 133

At the request of Mrs. FEINSTEIN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 133 proposed to S. 23, a bill to amend title 35, United States Code, to provide for patent reform.

AMENDMENT NO. 135

At the request of Ms. COLLINS, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of amendment No. 135 intended to be proposed to S. 23, a bill to amend title 35, United States Code, to provide for patent reform.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 467. A bill to amend the Internal Revenue Code of 1986 to strengthen the earned income tax credit; to the Committee on Finance.

Mr. KERRY. Mr. President, today Senator ROCKEFELLER and I are reintroducing the Strengthen the Earned Income Tax Credit Act of 2011. Since 1975, the earned income tax credit, EITC, has been an innovative tax credit which helps low-income working families. President Reagan referred to the EITC as ''the best antipoverty, the best pro-family, the best job creation measure to come out of Congress.'' According to the Center on Budget and Policy Priorities, the EITC lifts more children out of poverty than any other government program. It lifted 6.5 million people, including 3.3 million children, above the poverty line in 2009.

Last Congress, we were successful in making temporary improvements to the EITC by providing marriage penalty relief and increasing the credit rate for families with three or more children. Both of these provisions have been part of our legislation.

It is time for us to reexamine the EITC and determine where we can strengthen it. The Finance Committee of which I am a member has started a series of hearings on tax reform. I believe the tax code should be thoroughly reviewed to see what is working and not working and what can be made simpler. This legislation expands the EITC permanently, but as part of tax reform I would be open to changing the program. However, those currently benefiting from the EITC should not be harmed in tax reform and there should still be tax relief which encourages work and helps low-income families with children.

We need to help the low-income workers who struggle day after day trying to make ends meet. They have been left behind in the economic policies of the last eight years. We need to begin a discussion on how to help those that have been left behind. The EITC is the perfect place to start.

The Strengthen the Earned Income Tax Credit Act of 2011 strengthens the EITC by making the following changes: makes permanent marriage penalty relief; makes permanent the credit for families with three or more children; expands the credit for individuals with no children; simplifies the credit; and increases the penalty for tax preparers.

The legislation would make the marriage penalty relief included in the American Recovery and Reinvestment Act permanent. Under the American Recovery and Reinvestment Act, the phase-out income level for married taxpayers that file a joint return would be $5,000 higher than the income level for unmarried filers starting in 2009 and in 2010. This level would be indexed for inflation after 2009. The Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 extended this provision through 2012. Without this provision, many single individuals that marry find themselves faced with a reduction in their EITC. In Massachusetts, approximately 100,500 children a year benefit from the EITC because of this provision.

Second, the legislation makes permanent the credit for families with three or more children. Under prior law, the credit amount is based on one child or two or more children. The American Recovery and Reinvestment Act created a third child category for 2009 and 2010 and Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 extended this provision through 2012. This change benefits approximately 116,000 children a year in Massachusetts.

Third, this legislation would increase the credit amount for childless workers. The EITC was designed to help childless workers offset their payroll tax liability. The credit phase-in was set to equal the employee share of the payroll tax, 7.65 percent. However, in reality, the employee bears the burden of both the employee and employer portion of the payroll tax. A typical single childless adult will begin to owe Federal income taxes in addition to payroll taxes when his or her income is only $10,655, which is below the poverty line. These changes will result in a full time worker receiving the minimum wage to be eligible for the maximum earned income credit amount.

This legislation doubles the credit rate for individual taxpayer and married taxpayers without children. The credit rate and phase-out rate of 7.65 percent is doubled to 15.3 percent. For 2007, the maximum credit amount for an individual would increase from $457 to $929. In addition, the legislation would increase the credit phase-out income level from $7,590 to $12,690 for individuals and from $12,670 to $17,770 for married couples. This increase is indexed for inflation and includes the marriage penalty relief. Under current law, workers under age 25 are ineligible for the childless workers EITC. The Strengthen the Earned Income Tax Credit Act of 2011 would change the age

to 21. This age change will provide an incentive for labor for less-educated younger adults.

Fourth, the Strengthen the Earned Income Tax Credit Act of 2011 simplifies the EITC by modifying the abandoned spouse rule, clarifying the qualifying child rules, and repealing the disqualified investment test.

Finally, the legislation includes a provision which increases the penalty imposed on paid preparers who fail to comply with EITC due diligence requirements from $100 to $500. Unfortunately, about a quarter of EITC returns include errors and more than a majority of EITC returns are prepared by a preparer. This should help ensure that preparers comply with the due diligence requirements.

This legislation will help those who most need our help. It will put more money in their pay check. We need to invest in our families and help individuals who want to make a living by working. I urge my colleagues to support an expansion of the EITC.

By Mr. MCCONNELL (for himself, Mr. PAUL, and Mr. INHOFE):

S. 468. A bill to amend the Federal Water Pollution Control Act to clarify the authority of the Administrator to disapprove specifications of disposal sites for the discharge of, dredged or fill material, and to clarify the procedure under which a higher review of specifications may be requested; to the Committee on Environment and Public Works.

Mr. MCCONNELL. Mr. President, my friend and colleague from Kentucky, Senator PAUL, and I would like at this time to address the Senate about a bill we are introducing.

Coal is an enormously vital sector of Kentucky's economy. More than 200,000 jobs in my State depend on it, including the jobs of approximately 18,000 coal miners. Coal is tremendously important to our country as well. One-half of the country's electricity comes from coal. Yet, as we are faced with a weakened economy and high unemployment, an overreaching Environmental Protection Agency in Washington is blocking new jobs for Kentuckians and Americans by waging a literal war on coal.

To mine for coal, coal operators must receive what are called 404 permits. Those come from the EPA in order to operate. One such mine in southern West Virginia followed all of the proper procedures and got the green light from EPA to proceed with operations back in 2007.

But now, 3½ years later, in an unprecedented reversal, the EPA has retroactively ''reinterpreted'' its authority, withdrawn the permit it issued, and shut down the mine. The EPA's reinterpretation cost 280 Americans their jobs.

The EPA also announced that 79 of the 404 permit applications still being considered would be subject to ''enhanced environmental review''—''enhanced environmental review''—effectively putting them in limbo along with the jobs and economic activity they could create. Some of those permits are for jobs in Kentucky.

The EPA's action simply defies logic. Not only are they changing the rules in the middle of the game, they are retroactively changing the rules to shut down mines they already approved. No mine, regardless of whether it has been operating for years in full compliance of every rule and regulation, can be assured that Uncle Sam will not come along and shut them down.

Thousands of Kentuckians who work in coal mining or have jobs dependent on mining are literally in jeopardy. Other industries are at risk also. Farmers, developers, the transportation industry, and others also need permits from the EPA to continue to operate. They, too, could see these permits revoked.

The EPA has turned the permitting process into a backdoor means of shutting down coal mines by sitting on permits indefinitely, thus removing any regulatory certainty. What they are doing is outside the scope of their authority and the law and represents a fundamental departure from the permitting process as originally envisioned by Congress.

That is why I rise today to introduce, along with my good friends, Senator RAND PAUL and Senator JAMES INHOFE, the Mining Jobs Protection Act in the Senate.

This bill will tell the EPA to ''use it or lose it'' when deciding whether to invoke its veto authority of a 404 permit within a reasonable timeframe, giving permit applicants the certainty they need to do business.

The bill would ensure that all 404 permits move forward to be either approved or rejected, so applicants are not left in limbo, unsure how to act.

The bill also ensures that EPA cannot use its veto retroactively.

While being fair to permit applicants, the bill still preserves the EPA's full veto authority to protect human health and the environment.

Here is how the legislation would work. Once the EPA receives the 404 permit, it will have 30 days to determine if it is considering using its veto authority. If the Agency is considering doing so, it must publish that fact in the Federal Register, cite any potential concerns, and detail what must be done to address those concerns within the initial 30 days. The EPA then has an additional 30 days, for a total of 2 months, to invoke its veto authority. If the Agency does not use its veto authority within 60 days, the permit automatically moves forward and EPA's veto authority expires. All permits that have already been applied for would go through this process, ensuring every permit gets a fair shake.

Any permits vetoed prior to the passage of the bill would be reconsidered by the Army Corps of Engineers. It was important to me that this legislation address every 404 permit, not just one or a few.

This is a fair process that allows the EPA to act as vigorously as necessary to protect the environment and those of us living in it while also giving permit applications the certainty of knowing within a reasonable timeframe whether to proceed with mining operations and knowing that once they have the green light, it is not going to be subsequently revoked. More important, this legislation will allow my State and others to protect the coal and related industry jobs we already have and grow new ones in the future.

I wish to thank my colleague from Kentucky and Senator INHOFE for standing alongside me on this matter that is so important to our States but also to the country as a whole. This is not just a Kentucky issue. We think our bill strikes a fair balance toward conserving the best of America's natural beauty while also building toward a brighter future.

The EPA's mission is important but so is job creation. Particularly when unemployment is higher than all of us would like, both sides of the equation must be considered. So I look forward to working with my colleagues on both sides of the aisle to make the Mining Jobs Protection Act a 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. 468

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 ''Mining Jobs Protection Act''.

SEC. 2. PERMITS FOR DREDGED OR FILL MATERIAL.

Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by striking subsection (c) and inserting the following:

''(c) AUTHORITY OF ADMINISTRATOR TO DISAPPROVE SPECIFICATIONS.—

''(1) IN GENERAL.—The Administrator, in accordance with this subsection, may prohibit the specification of any defined area as a disposal site, and may deny or restrict the use of any defined area for specification as a disposal site, in any case in which the Administrator determines, after notice and opportunity for public hearings and consultation with the Secretary, that the discharge of those materials into the area will have an unacceptable adverse effect on—

''(A) municipal water supplies;

''(B) shellfish beds and fishery areas (including spawning and breeding areas);

''(C) wildlife; or

''(D) recreational areas.

''(2) DEADLINE FOR ACTION.—

''(A) IN GENERAL.—The Administrator shall—

''(i) not later than 30 days after the date on which the Administrator receives from the Secretary for review a specification proposed to be issued under subsection (a), provide notice to the Secretary of, and publish in the Federal Register, a description of any potential concerns of the Administrator with respect to the specification, including a list of

measures required to fully address those concerns; and

''(ii) if the Administrator intends to disapprove a specification, not later than 60 days after the date on which the Administrator receives a proposed specification under subsection (a) from the Secretary, provide to the Secretary and the applicant, and publish in the Federal Register, a statement of disapproval of the specification pursuant to this subsection, including the reasons for the disapproval.

''(B) FAILURE TO ACT.—If the Administrator fails to take any action or meet any deadline described in subparagraph (A) with respect to a proposed specification, the Administrator shall have no further authority under this subsection to disapprove or prohibit issuance of the specification.

''(3) NO RETROACTIVE DISAPPROVAL.—

''(A) IN GENERAL.—The authority of the Administrator to disapprove or prohibit issuance of a specification under this subsection—

''(i) terminates as of the date that is 60 days after the date on which the Administrator receives the proposed specification from the Secretary for review; and

''(ii) shall not be used with respect to any specification after issuance of the specification by the Secretary under subsection (a).

''(B) SPECIFICATIONS DISAPPROVED BEFORE DATE OF ENACTMENT.—In any case in which, before the date of enactment of this subparagraph, the Administrator disapproved a specification under this subsection (as in effect on the day before the date of enactment of the Mining Jobs Protection Act) after the specification was issued by the Secretary pursuant to subsection (a)—

''(i) the Secretary may—

''(I) reevaluate and reissue the specification after making appropriate modifications; or

''(II) elect not to reissue the specification; and

''(ii) the Administrator shall have no further authority to disapprove the modified specification or any reissuance of the specification.

''(C) FINALITY.—An election by the Secretary under subparagraph (B)(i) shall constitute final agency action.

''(4) APPLICABILITY.—Except as provided in paragraph (3), this subsection applies to each specification proposed to be issued under subsection (a) that is pending as of, or requested or filed on or after, the date of enactment of the Mining Jobs Protection Act''.

SEC. 3. REVIEW OF PERMITS.

Section 404(q) of the Federal Water Pollution Control Act (33 U.S.C. 1344(q)) is amended—

(1) in the first sentence, by striking ''(q) Not later than'' and inserting the following:

''(q) AGREEMENTS; HIGHER REVIEW OF PERMITS.—

''(1) AGREEMENTS.—

''(A) IN GENERAL.—Not later than'';

(2) in the second sentence, by striking ''Such agreements'' and inserting the following:

''(B) DEADLINE.—Agreements described in subparagraph (A)''; and

(3) by adding at the end the following:

''(2) HIGHER REVIEW OF PERMITS.—

''(A) IN GENERAL.—Subject to subparagraph (C), before the Administrator or the head of another Federal agency requests that a permit proposed to be issued under this section receive a higher level of review by the Secretary, the Administrator or other head shall—

''(i) consult with the head of the State agency having jurisdiction over aquatic resources in each State in which activities under the requested permit would be carried out; and

''(ii) obtain official consent from the State agency (or, in the case of multiple States in which activities under the requested permit would be carried out, from each State agency) to designate areas covered or affected by the proposed permit as aquatic resources of national importance.

''(B) FAILURE TO OBTAIN CONSENT.—If the Administrator or the head of another Federal agency does not obtain State consent described in subparagraph (A) with respect to a permit proposed to be issued under this section, the Administrator or Federal agency may not proceed in seeking higher review of the permit.

''(C) LIMITATION ON ELEVATIONS.—The Administrator or the head of another Federal agency may request that a permit proposed to be issued under this section receive a higher level of review by the Secretary not more than once per permit.

''(D) EFFECTIVE DATE.—This paragraph applies to permits for which applications are submitted under this section on or after January 1, 2010.''.

Mr. PAUL. Mr. President, I rise in support of this legislation. I think this is a good first step to reining in an out-of-control, unelected bureaucracy. I think the EPA has gone way beyond its mandated duty and is now at the point of stifling industry in our country. We see this and hear this across the State of Kentucky, as well as across the country. The President doesn't seem to understand why the country thinks he is against business and against progress. One can't be for job creation if one is against the job creators.

As the minority leader indicated, we have nearly 100,000 jobs and hundreds of thousands of other jobs connected to coal. This really applies to the rest of the country as well. Over half of the electricity in our country comes from coal. Over 90 percent of the electricity in Kentucky comes from coal. Yet we have mining operations that went through the process, some of them taking up to 10 years. I think the mine in question went through a 10-year process, spent millions of dollars to try to get started to provide electricity for the rest of us. Yet then the EPA comes in at the last minute.

There is said to be nearly 200 permits out there languishing. I asked the question of my staff this morning: How many have been applied for and how many have been granted? The EPA won't even tell us that. But from talking to those trying to produce the coal, to produce the electricity for our country, they said they can't get permits. In fact, there is one coal company in Kentucky that is now suing the Federal Government, saying they have taken his property. They have effectively taken his property because he can't get a permit. This is a real problem. The average expectancy for getting a permit in our country now for all mines is 7 years.

We wonder why we are languishing as we depend on everyone else for our energy. We want to be energy independent, and we sit on top of some of our country's most natural resources in oil and coal. Yet we won't produce our own. We have to become so involved and there are so many justifications for war across the world and this and that. Yet we refuse to use our own resources.

This is a very good step in trying to make the process better. All it is saying is that the EPA cannot have unlimited time to sit on our permits. This is saying there have to be rules.

I say this is a first step because I think the last election was about saying that unelected bureaucrats should not write law. That is what has happened. The President and many of his supporters have indicated they can't get cap and trade through the elected body, so they are going to go through the back door, through regulations. The American people need to stand up and say that unelected bureaucrats should not and cannot be allowed to write law. That is essentially what is happening now. I think this is a great first step. I compliment the minority leader for bringing this forward, and I wholeheartedly support it.

By Mr. BEGICH (for himself, Mrs. MURRAY, Ms. MURKOWSKI, and Mrs. BOXER):

S. 472. A bill to increase the mileage reimbursement rate for members of the armed services during permanent change of station and to authorize the transportation of additional motor vehicles of members on change of permanent station to or from nonforeign areas outside the continental United States; to the Committee on Armed Services.

Mr. BEGICH. Mr President, last week I had the privilege to travel to the Army's National Training Center to see the 1st Stryker Brigade Combat Team from Alaska train. I was amazed at what our soldiers do to prepare for the defense of our country.

Despite their upcoming deployment to Afghanistan in May, these Arctic Warriors were not thinking about themselves. They were thinking about their families. Over and over I heard how important their family's security and support system was to them, especially as they prepared to deploy.

To help out our military families today I am pleased to introduce the Service Members Permanent Change of Station Relief Act with my cosponsors Senator PATTY MURRAY, Senator BARBARA BOXER, and Senator LISA MURKOWSKI. This bill will improve financial security for our military families by increasing reimbursement for out-of-pocket expenses they often incur during government directed moves.

First, the bill will provide reimbursement to military families for costs incurred transporting a second car on a change of permanent duty station to or from Alaska, Hawaii or Guam. As with their counterparts in civilian life, many military families today own and rely on a second vehicle to work, take care of their children and meet day-to-day needs of the family. By doing this, we can save our military families $2,000 in personal expenses they pay to transport a second car.

Additionally, the bill increases the gas mileage reimbursement rate to $.51 per mile during a move to allow for compensation of all costs and depreciation resulting from use of a personal vehicle for a government move.

Our military families make great personal sacrifices for our country. Providing the Arctic Warriors and other military members a little peace of mind about the financial security of their families is the least we can do. I ask my colleagues to cosponsor this 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. 472

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 ''Service Members Permanent Change of Station Relief Act''.

SEC. 2. MILEAGE REIMBURSEMENT RATE FOR MEMBERS OF THE UNIFORMED SERVICES FOR TRAVEL RELATED TO CHANGE OF PERMANENT STATION.

Section 404(d)(1)(A) of title 37, United States Code, is amended by striking ''monetary allowance'' and all that follows through the period at the end and inserting the following: ''monetary allowance in place of the cost of transportation—

''(i) in the case of a member for whom travel has been authorized in connection with a change of a change of permanent station or for travel described in paragraph (2) or (3) of subsection (a), at the business standard mileage rate set by the Internal Revenue Service pursuant to section 1.274.5(j)(2) of title 26, Code of Federal Regulations; and

''(ii) in the case of a member's dependent for whom such travel has been authorized, at the rate provided in section 5704 of title 5.''.

SEC. 3. TRANSPORTATION OF ADDITIONAL MOTOR VEHICLE OF MEMBERS ON CHANGE OF PERMANENT STATION TO OR FROM NONFOREIGN AREAS OUTSIDE THE CONTINENTAL UNITED STATES.

(a) AUTHORITY TO TRANSPORT ADDITIONAL MOTOR VEHICLE.—Subsection (a) of section 2634 of title 10, United States Code, is amended—

(1) by striking the sentence following paragraph (4);

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by inserting ''(1)'' after ''(a)''; and

(4) by adding at the end the following new paragraph:

''(2) One additional motor vehicle of a member (or a dependent of the member) may be transported as provided in paragraph (1) if—

''(A) the member is ordered to make a change of permanent station to or from a nonforeign area outside the continental United States and the member has at least one dependent of driving age who will use the motor vehicle; or

''(B) the Secretary concerned determines that a replacement for the motor vehicle transported under paragraph (1) is necessary for reasons beyond the control of the member and is in the interest of the United States and the Secretary approves the transportation in advance.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Such subsection is further amended—

(1) by striking ''his dependents'' and inserting ''a dependent of the member'';

(2) by striking ''him'' and inserting ''the member'';

(3) by striking ''his)'' and inserting ''the member)'';

(4) by striking ''his new'' and inserting ''the member's new''; and

(5) in paragraph (1)(C), as redesignated by subsection (a)—

(A) by striking ''clauses (1) and (2)'' and inserting ''subparagraphs (A) and (B)''; and

(B) by inserting ''or'' after the semicolon.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect on January 1, 2012, and apply with respect to a permanent change of station order issued on or after that date to a member of the uniformed services.

By Ms. COLLINS (for herself, Mr. PRYOR, Mr. PORTMAN, and Ms. LANDRIEU):

S. 473. A bill to extend the chemical facility security program of the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, the law granting the Federal Government, for the first time, the authority to regulate the security of the Nation's highest risk chemical facilities is due to expire on March 18. We cannot allow this to occur. Given the success of this law and its vital importance to all Americans, I am introducing legislation today with Senators PRYOR, PORTMAN, and LANDRIEU to extend and improve the law.

More than 70,000 products are created through the use of chemicals, helping to supply the consumer, industrial, construction, and agricultural sectors of our economy. The United States is home to thousands of facilities that manufacture, use, or store chemicals.

This industry is vital to our economy, with annual sales of $725 billion, exports of $171 billion, and more than 780,000 employees.

After September 11, 2001, we realized that chemical facilities were vulnerable to terrorist attack. Given the hazardous chemicals present at many locations, terrorists could view them as attractive targets, yielding loss of life, significant injuries, and major destruction if successfully attacked.

In 2005, as Chairman of the Senate Homeland Security and Governmental Affairs Committee, I held a series of hearings on chemical security. Following these hearings, Senators LIEBERMAN, CARPER, LEVIN, and I introduced bipartisan legislation authorizing the Department of Homeland Security to set and enforce security standards at high-risk chemical facilities. That bill was incorporated into the homeland security appropriations act that was signed into law in 2006.

To implement this new authority, DHS established the Chemical Facility Anti-Terrorism Standards program, or CFATS. The program sets 18 risk-based performance standards that high-risk chemical facilities must meet. These security standards cover a range of threats, such as perimeter security, access control, theft, internal sabotage, and cyber security.

High-risk chemical facilities covered by the program must conduct mandatory vulnerability assessments, develop site security plans, and invest in protective measures.

The Department must approve these assessments and site security plans, using audits and inspections to ensure compliance with the performance standards. The Secretary has strong authority to shut down facilities that are non-compliant.

This risk-based approach has made the owners and operators of chemical plants partners with the Federal Government in implementing a successful, collaborative security program.

This landmark law has been in place slightly more than four years. Taxpayers have invested nearly $300 million in the program, and chemical plants have invested hundreds of millions more to comply with the law. As a direct result, security at our Nation's chemical facilities is much stronger today.

Now we must reauthorize the program. Simply put, the program works and should be extended.

Changing this successful law, as was proposed last year by the House of Representatives in partisan legislation, would discard what is working for an unproven and burdensome plan.

We must not undermine the substantial investments of time and resources already made in CFATS implementation by both DHS and the private sector. Worse would be requiring additional expenditures with no demonstrable increase to the overall security of our Nation.

In the 111th Congress, the Senate and the House of Representatives debated a provision that would alter the fundamental nature of CFATS. The provision would have required the Department to completely rework the program. It would have mandated the use of so-called ''inherently safer technology,'' or IST.

What is IST? It is an approach to process engineering. It is not, however, a security measure.

An IST mandate may actually increase or unacceptably transfer risk to other points in the chemical process or elsewhere in the supply chain.

For example, many drinking water utilities have determined that chlorine remains their best and most effective drinking water treatment option. Their decisions were not based solely on financial considerations, but also on many other factors, such as the characteristics of the region's climate, geography, and source water supplies, the size and location of the utility's facilities, and the risks and benefits of chlorine use compared to the use of alternative treatment processes.

According to one water utility located in an isolated area of the northwest United States, if Congress were to force it to replace its use of gaseous

chlorine with sodium hypochlorite, then the utility would have to use as much as seven times the current quantity of treatment chemicals to achieve comparable water quality results. In turn, the utility would have to arrange for many more bulk chemical deliveries, by trucks, into a watershed area. The greater quantities of chemicals and increased frequency of truck deliveries would heighten the risk of an accident resulting in a chemical spill into the watershed. In fact, the accidental release of sodium hypochlorite into the watershed would likely cause greater harm to soils, vegetation, and streams than a gaseous chlorine release in this remote area.

Currently, DHS cannot dictate specific security measures, like IST. Nor should it. The Federal Government should set performance standards, but leave it up to the private sector to decide precisely how to achieve those standards.

Forcing chemical facilities to implement IST could cost jobs at some facilities and affect the availability of many vital products.

Last year, the Society of Chemical Manufacturers and Affiliates testified that mandatory IST would restrict the production of pharmaceuticals and microelectronics, hobbling these industries. The increased cost of a mandatory IST program may force chemical companies to simply transfer their operations overseas, costing American workers thousands of jobs.

To be clear, some owners and operators of chemical facilities may choose to use IST. But that decision should be theirs—not Washington's. Congress should not dictate specific industrial processes under the guise of security when a facility could choose other alternatives that meet the Nation's security needs.

Last July, the Homeland Security Committee unanimously approved bipartisan legislation I authored with Senators PRYOR, VOINOVICH, and LANDRIEU to extend CFATS for three more years.

Additionally, the bill would have established voluntary exercise and training programs to improve collaboration with the private sector and state and local communities under the CFATS program; created a voluntary technical assistance program; and created a chemical facility security best practices clearinghouse and private sector advisory board at DHS to assist in the implementation of CFATS.

Today, along with Senators PRYOR, PORTMAN, and LANDRIEU, I am reintroducing this bill. The Continuing Chemical Facilities Antiterrorism Security Act of 2011 is a straight-forward, common-sense reauthorization of the CFATS program.

I am conscious of the risks our Nation faces through an attack on a chemical facility. That is why I authored this law in the first place and battled considerable opposition to get it enacted. We should support the continuation of this successful security program without the addition of costly, unproven Federal mandates. I urge my colleagues to support this important bill.

By Ms. SNOWE (for herself, Mr. COBURN, Ms. AYOTTE, Mr. ENZI, and Mr. BROWN, of Massachusetts):

S. 474. A bill to reform the regulatory process to ensure that small businesses are free to compete and to create jobs, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. SNOWE. Mr. President, I rise today, with Senators COBURN, AYOTTE, ENZI, and BROWN of Massachusetts, to introduce the Small Business Regulatory Freedom Act of 2011, a vital measure that will help ensure that the federal government fully consider small business job creation in the bills we pass here in Congress and in the rules and regulations that agencies promulgate.

As the former Chair and now Ranking Member of the Senate Committee on Small Business and Entrepreneurship, I believe there is no more urgent imperative than job creation in our country. For the past 21 months, the unemployment rate has stood at 9 percent or above. We cannot allow these outrageous levels of unemployment to become the new normal. Therefore, it is essential that we focus like a laser on jumpstarting our economy. Now is the time to tear down barriers to job creation, not build them higher.

Unfortunately, recent data suggests that not only is this administration failing to tear down barriers to small business job creation, but rather is actively constructing new obstacles. In fiscal year 2010 alone, this administration embarked on nothing short of regulatory rampage, stampeding over small business, through the promulgation of 43 new major regulations promulgated in fiscal year 2010, imposing $26.5 billion in new regulatory compliance costs, and that's on top of the $1.75 trillion in annual compliance costs that the SBA Office of Advocacy recently reported.

Simply put, this is unacceptable. Too often, the Federal Government considers the regulatory impact on small firms merely as an afterthought rather than a top priority. In my recent street tours and meetings in Maine, aside from taxes, small businesses complain most about the onerous regulations emanating from every agency, every sphere of Washington, DC. Consider that, according to the U.S. Chamber of Commerce, the health reform law, which I opposed, mandates 41 separate rulemakings, at least 100 additional regulatory guidance documents, and 129 reports. What's most alarming, small firms with fewer than 20 employees bear a disproportionate burden of complying with federal regulations, paying an annual regulatory cost of $10,585 per employee, which is 36 percent higher than the regulatory cost facing larger firms.

This must change, and the ''Small Business Regulatory Freedom Act of 2011,'' aims to do just that. Our bill reforms the flawed rulemaking process to ensure that federal agencies consider small business impact before a rule is promulgated, not after. Our legislation, which is strongly supported by the National Federation of Independent Business, NFIB, would amend the Regulatory Flexibility Act, RFA, the seminal legislation enacted in 1980 that requires Federal agencies to conduct small business analyses for any proposed or final regulation that would impose a significant impact on a substantial number of small firms.

The first provision in our bill would enhance these small business analyses, by requiring agencies to draw in rules with foreseeable ''indirect'' economic effects under the definition of rules covered by the RFA. Such rules are currently exempt from the RFA, which currently only applies to ''direct'' economic impact. The RFA has already saved billions for small businesses by forcing government regulators to be sensitive to their direct impact on small firms. If billions of dollars can be filtered out of direct regulatory mandates upon small business while improving workplace safety and environmental conditions, even more can be saved by filtering out unnecessary or duplicative costs to those small businesses indirectly impacted by regulation.

The bill would also expand judicial review requirements currently in the RFA to allow small entities to seek review and an injunction at the proposed rule stage if agencies fail to fully consider small business impact as they are required to by law. This will help to ensure that federal agencies complete meaningful initial analyses under the RFA. Currently, small entities can only seek review on the date of the final regulatory action.

In addition, our legislation would amend and clarify the requirements under the RFA for the periodic review of rules. Many questions have arisen as a result of the ambiguous language in the RFA that have caused some confusion as to what rules require periodic review and when. Our bill clarifies the requirements for ''periodic review'' under Section 610 of the RFA so that both existing rules and rules that are promulgated after enactment of the Small Business Regulatory Freedom Act of 2011 are periodically reviewed within 10 years and every ten years thereafter. Along with each review, an agency must also create and update small business compliance guides to assist small businesses comply with that agencies regulations. The requirements of periodic review would also apply to these compliance guides and must be updated when the rule is reviewed.

Unfortunately, past efforts to encourage agencies to periodically review their regulations have failed because of

the lack of an enforcement mechanism. Our bill rectifies this issue. To ensure agency compliance the bill includes a sunset provision. If the Chief Counsel for the SBA Office of Advocacy determines that an agency has failed to conduct the necessary periodic review of a rule, then that rule will sunset and cease to have effect.

Moreover, the bill would expand the small business review panel process requirement, SBREFA panels, to apply to all agencies. These panels currently only apply to the Environmental Protection Agency, EPA, Occupational Safety and Health Administration, OSHA, and, thanks to an amendment that I included in the Wall Street Reform legislation, the new Consumer Financial Protection Bureau, CFPB. These panels have worked well at EPA and OSHA since 1996, so why not apply this stipulation to every federal agency, so small businesses are considered first, and not as an afterthought?

Furthermore, our bill would extend the RFA to informal agency guidance documents, so that Federal agencies must conduct small business economic analyses before publishing informal guidance documents. Many agencies, including the OSHA, have repeatedly subverted the rulemaking process through the use of guidance documents or ''reinterpretations'' so that they don't have to adhere to their RFA obligations, including small business review panels—this provision will help to end that practice.

This legislation also seeks to clarify language included in the RFA that has led to a great deal of confusion regarding RFA applicability to the IRS, and would once and for all ensure that indeed the IRS is covered under the RFA ending the longstanding practice of the IRS utilizing some unprecedented interpretations to circumvent compliance with the RFA—this bill closes those loopholes. For example, the IRS has argued that paperwork requirements are mandated by Congress and thus it is Congress that is creating the requirement, not the IRS. Our bill would clarify the definitions so the IRS and other agencies can no longer dodge conducting its RFA obligations.

Our bill will also update a dormant provision of the Small Business Regulatory Enforcement Fairness Act, SBREFA, by requiring that federal agencies review existing penalty structures within 6 months of enactment and every two years thereafter to mitigate penalty provisions on small firms. Too often agencies, like OSHA, set or update their penalty structures without considering small business economic impact. Our provision should end this practice.

Strengthening how Federal agencies execute their small business analyses is also a central requirement for real reform. This legislation will accomplish this goal through three fundamental reforms:

First, it would require a calculation of the additional cumulative impact the proposed rule will impose on small entities, including job creation and employment effects, beyond what is already imposed on small firms by the agency.

Second, the bill would require federal agencies to notify the Chief Counsel for the SBA Office Advocacy about any draft rule that will trigger an RFA analysis when the agency submits the draft rule to OMB's Office of Information and Regulatory Affairs, OIRA.

Third, our legislation would strengthen final regulatory flexibility analyses under RFA. Currently, small business analyses in final rules are only required to produce a summary analysis, general statement, or explanation regarding a rule's effect on small entities. In practice this has allowed agencies to avoid an in depth analysis of a rule's effect. Our legislation would enhance reporting so an agency must include a detailed analysis. It also would require the promulgating agency to publish the entire final analysis on its web site and in the Federal Register.

Our bill will also ensure that before an agency certifies that a proposed rule will not impose an economic impact on small business, it must first determine the average cost of the rule for small entities affected or reasonably presumed to be affected; the number of small firms affected or presumed to be affected; and the number of affected small entities for which the cost of the rule will be significant. Also, before a certification statement can be published the agency must send a copy of the certification to, and consult with, the Chief Counsel for Advocacy on the accuracy of the certification and statement.

Finally, the bill will clarify that the Chief Counsel for the SBA Office of Advocacy to be an attorney with expertise or knowledge of the regulatory process. This will ensure that the President nominates a qualified individual who will be the most effective advocate for small business possible. We also provide additional powers to the Chief Counsel by allowing him or her to comment on any regulatory action, not just during the notice and comment rulemaking process. In the past, the Office of Advocacy has refused to weigh in on matters outside the rulemaking process—e.g., guidance documents—citing a lack of authority to do so.

In a November 2010 Senate Small Business Committee hearing, it was noted that if there were a 30 percent cut in regulatory costs, an average 10-person firm would save, on average nearly $32,000, enough to hire one additional person. There is no doubt, reducing the regulatory burden on American small businesses will create jobs. After 21 straight months with unemployment at or above nine percent, it is more imperative than ever that we finally liberate American small businesses from the regulatory burden holding them down.

It is essential that we pass this legislation. I urge my colleagues to support my bill so we can ensure that our nation's small businesses and their employees are provided with much needed relief.

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

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

S. 474

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 ''Small Business Regulatory Freedom Act of 2011''.

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

SEC. 2. FINDINGS.

Congress finds the following:

(1) A vibrant and growing small business sector is critical to the recovery of the economy of the United States.

(2) Regulations designed for application to large-scale entities have been applied uniformly to small businesses and other small entities, sometimes inhibiting the ability of small entities to create new jobs.

(3) Uniform Federal regulatory and reporting requirements in many instances have imposed on small businesses and other small entities unnecessary and disproportionately burdensome demands, including legal, accounting, and consulting costs, thereby threatening the viability of small entities and the ability of small entities to compete and create new jobs in a global marketplace.

(4) Since 1980, Federal agencies have been required to recognize and take account of the differences in the scale and resources of regulated entities, but in many instances have failed to do so.

(5) In 2009, there were nearly 70,000 pages in the Federal Register, and, according to research by the Office of Advocacy of the Small Business Administration, the annual cost of Federal regulations totals $1,750,000,000,000. Small firms bear a disproportionate burden, paying approximately 36 percent more per employee than larger firms in annual regulatory compliance costs.

(6) All agencies in the Federal Government should fully consider the costs, including indirect economic impacts and the potential

for job creation and job loss, of proposed rules, periodically review existing regulations to determine their impact on small entities, and repeal regulations that are unnecessarily duplicative or have outlived their stated purpose.

(7) It is the intention of Congress to amend chapter 6 of title 5, United States Code, to ensure that all impacts, including foreseeable indirect effects, of proposed and final rules are considered by agencies during the rulemaking process and that the agencies assess a full range of alternatives that will limit adverse economic consequences, enhance economic benefits, and fully address potential job creation or job loss.

SEC. 3. INCLUDING INDIRECT ECONOMIC IMPACT IN SMALL ENTITY ANALYSES.

Section 601 of title 5, United States Code, is amended by adding at the end the following:

''(9) the term 'economic impact' means, with respect to a proposed or final rule—

''(A) any direct economic effect of the rule on small entities; and

''(B) any indirect economic effect on small entities, including potential job creation or job loss, that is reasonably foreseeable and that results from the rule, without regard to whether small entities are directly regulated by the rule.''.

SEC. 4. JUDICIAL REVIEW TO ALLOW SMALL ENTITIES TO CHALLENGE PROPOSED REGULATIONS.

Section 611(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by inserting ''603,'' after ''601,'';

(2) in paragraph (2), by inserting ''603,'' after ''601,'';

(3) by striking paragraph (3) and inserting the following:

''(3) A small entity may seek such review during the 1-year period beginning on the date of final agency action, except that—

''(A) if a provision of law requires that an action challenging a final agency action be commenced before the expiration of 1 year, the lesser period shall apply to an action for judicial review under this section; and

''(B) in the case of noncompliance with section 603 or 605(b), a small entity may seek judicial review of agency compliance with such section before the close of the public comment period.''; and

(4) in paragraph (4)—

(A) in subparagraph (A), by striking '', and'' and inserting a semicolon;

(B) in subparagraph (B), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(C) issuing an injunction prohibiting an agency from taking any agency action with respect to a rulemaking until that agency is in compliance with the requirements of section 603 or 605.''.

SEC. 5. PERIODIC REVIEW AND SUNSET OF EXISTING RULES.

Section 610 of title 5, United States Code, is amended to read as follows:

''§ 610. Periodic review of rules

''(a)(1) Not later than 180 days after the date of enactment of the Small Business Regulatory Freedom Act of 2011, each agency shall establish a plan for the periodic review of—

''(A) each rule issued by the agency that the head of the agency determines has a significant economic impact on a substantial number of small entities, without regard to whether the agency performed an analysis under section 604 with respect to the rule; and

''(B) any small entity compliance guide required to be published by the agency under section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note).

''(2) In reviewing rules and small entity compliance guides under paragraph (1), the agency shall determine whether the rules and guides should—

''(A) be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant adverse economic impacts on a substantial number of small entities (including an estimate of any adverse impacts on job creation and employment by small entities); or

''(B) continue in effect without change.

''(3) Each agency shall publish the plan established under paragraph (1) in the Federal Register and on the Web site of the agency.

''(4) An agency may amend the plan established under paragraph (1) at any time by publishing the amendment in the Federal Register and on the Web site of the agency.

''(b)(1) Each plan established under subsection (a) shall provide for—

''(A) the review of each rule and small entity compliance guide described in subsection (a)(1) in effect on the date of enactment of the Small Business Regulatory Freedom Act of 2011—

''(i) not later than 8 years after the date of publication of the plan in the Federal Register; and

''(ii) every 8 years thereafter; and

''(B) the review of each rule adopted and small entity compliance guide described in subsection (a)(1) that is published after the date of enactment of the Small Business Regulatory Freedom Act of 2011—

''(i) not later than 8 years after the publication of the final rule in the Federal Register; and

''(ii) every 8 years thereafter.

''(2)(A) If an agency determines that the review of the rules and guides described in paragraph (1)(A) cannot be completed before the date described in paragraph (1)(A)(i), the agency—

''(i) shall publish a statement in the Federal Register certifying that the review cannot be completed; and

''(ii) may extend the period for the review of the rules and guides described in paragraph (1)(A) for a period of not more than 2 years, if the agency publishes notice of the extension in the Federal Register.

''(B) An agency shall transmit to the Chief Counsel for Advocacy of the Small Business Administration and Congress notice of any statement or notice described in subparagraph (A).

''(c) In reviewing rules under the plan required under subsection (a), the agency shall consider—

''(1) the continued need for the rule;

''(2) the nature of complaints received by the agency from small entities concerning the rule;

''(3) comments by the Regulatory Enforcement Ombudsman and the Chief Counsel for Advocacy of the Small Business Administration;

''(4) the complexity of the rule;

''(5) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, unless the head of the agency determines it to be infeasible, State and local rules;

''(6) the contribution of the rule to the cumulative economic impact of all Federal rules on the class of small entities affected by the rule, unless the head of the agency determines that such a calculation cannot be made;

''(7) the length of time since the rule has been evaluated, or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule; and

''(8) the impact of the rule, including—

''(A) the estimated number of small entities to which the rule will apply;

''(B) the estimated number of small entity jobs that will be lost or created due to the rule; and

''(C) the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including—

''(i) an estimate of the classes of small entities that will be subject to the requirement; and

''(ii) the type of professional skills necessary for preparation of the report or record.

''(d)(1) Each agency shall submit an annual report regarding the results of the review required under subsection (a) to—

''(A) Congress; and

''(B) in the case of an agency that is not an independent regulatory agency (as defined in section 3502(5) of title 44), the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget.

''(2) Each report required under paragraph (1) shall include a description of any rule or guide with respect to which the agency made a determination of infeasibility under paragraph (5) or (6) of subsection (c), together with a detailed explanation of the reasons for the determination.

''(e) Each agency shall publish in the Federal Register and on the Web site of the agency a list of the rules and small entity compliance guides to be reviewed under the plan required under subsection (a) that includes—

''(1) a brief description of each rule or guide;

''(2) for each rule, the reason why the head of the agency determined that the rule has a significant economic impact on a substantial number of small entities (without regard to whether the agency had prepared a final regulatory flexibility analysis for the rule); and

''(3) a request for comments from the public, the Chief Counsel for Advocacy of the Small Business Administration, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rules or publication of the guides.

''(f)(1) With respect to each agency, not later than 6 months after each date described in subsection (b)(1), the Chief Counsel for Advocacy of the Small Business Administration shall determine whether the agency has completed the review required under subsection (b).

''(2) If, after a review under paragraph (1), the Chief Counsel for Advocacy of the Small Business Administration determines that an agency has failed to complete the review required under subsection (b), each rule issued by the agency that the head of the agency determined under subsection (a) has a significant economic impact on a substantial number of small entities shall immediately cease to have effect.''.

SEC. 6. REQUIRING SMALL BUSINESS REVIEW PANELS FOR ALL AGENCIES.

(a) AGENCIES.—Section 609 of title 5, United States Code, is amended—

(1) in subsection (b), by striking ''a covered agency'' each place it appears and inserting ''an agency''; and

(2) in subsection (e)(1), by striking ''the covered agency'' and inserting ''the agency''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 609.—Section 609 of title 5, United States Code, is amended—

(A) by striking subsection (d), as amended by section 1100G(a) of Public Law 111–203 (124 Stat. 2112); and

(B) by redesignating subsection (e) as subsection (d).

(2) SECTION 603.—Section 603(d) of title 5, United States Code, as added by section 1100G(b) of Public Law 111–203 (124 Stat. 2112), is amended—

(A) in paragraph (1), by striking ''a covered agency, as defined in section 609(d)(2)'' and inserting ''the Bureau of Consumer Financial Protection''; and

(B) in paragraph (2), by striking ''A covered agency, as defined in section 609(d)(2),'' and inserting ''The Bureau of Consumer Financial Protection''.

(3) SECTION 604.—Section 604(a) of title 5, United States Code, is amended—

(A) by redesignating the second paragraph designated as paragraph (6) (relating to covered agencies), as added by section 1100G(c)(3) of Public Law 111–203 (124 Stat. 2113), as paragraph (7); and

(B) in paragraph (7), as so redesignated—

(i) by striking ''a covered agency, as defined in section 609(d)(2)'' and inserting ''the Bureau of Consumer Financial Protection''; and

(ii) by striking ''the agency'' and inserting ''the Bureau''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act and apply on and after the designated transfer date established under section 1062 of Public Law 111–203 (12 U.S.C. 5582).

SEC. 7. EXPANDING THE REGULATORY FLEXIBILITY ACT TO AGENCY GUIDANCE DOCUMENTS.

Section 601(2) of title 5, United States Code, is amended by inserting after ''public comment'' the following: ''and any significant guidance document, as defined in the Office of Management and Budget Final Bulletin for Agency Good Guidance Procedures (72 Fed. Reg. 3432; January 25, 2007)''.

SEC. 8. REQUIRING THE INTERNAL REVENUE SERVICE TO CONSIDER SMALL ENTITY IMPACT.

(a) IN GENERAL.—Section 603(a) of title 5, United States Code, is amended, in the fifth sentence, by striking ''but only'' and all that follows through the period at the end and inserting ''but only to the extent that such interpretative rules, or the statutes upon which such rules are based, impose on small entities a collection of information requirement or a recordkeeping requirement.''.

(b) DEFINITIONS.—Section 601 of title 5, United States Code, as amended by section 3 of this Act, is amended—

(1) in paragraph (6), by striking ''and'' at the end; and

(2) by striking paragraphs (7) and (8) and inserting the following:

''(7) the term 'collection of information' has the meaning given that term in section 3502(3) of title 44;

''(8) the term 'recordkeeping requirement' has the meaning given that term in section 3502(13) of title 44; and''.

SEC. 9. MITIGATING PENALTIES ON SMALL ENTITIES.

Section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121; 110 Stat. 862) is amended by adding at the end the following:

''(d) REVIEW OF POLICIES AND PROGRAMS.—

''(1) REVIEW REQUIRED.—Not later than 6 months after the date of enactment of this subsection, and every 2 years thereafter, each agency regulating the activities of small entities shall review the policy or program established by the agency under subsection (a) and make any modifications to the policy or program necessary to comply with the requirements under this section.

''(2) REPORT.—Not later than 6 months after the date of enactment of this subsection, and every 2 years thereafter, each agency described in paragraph (1) shall submit a report on the review and modifications required under paragraph (1) to—

''(A) the Committee on Small Business and Entrepreneurship and the Committee on Homeland Security and Governmental Affairs of the Senate; and

''(B) the Committee on Small Business and the Committee on the Judiciary of the House of Representatives.''.

SEC. 10. REQUIRING MORE DETAILED SMALL ENTITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, as amended by section 1100G(b) of Public Law 111–203 (124 Stat. 2112), is amended—

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

''(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement—

''(1) describing the reasons why action by the agency is being considered;

''(2) describing the objectives of, and legal basis for, the proposed rule;

''(3) estimating the number and type of small entities to which the proposed rule will apply;

''(4) describing the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report and record;

''(5) describing all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided; and

''(6) estimating the additional cumulative economic impact of the proposed rule on small entities, including job creation and employment by small entities, beyond that already imposed on the class of small entities by the agency, or the reasons why such an estimate is not available.''; and

(2) by adding at the end the following:

''(e) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration of any draft rules that may have a significant economic impact on a substantial number of small entities—

''(1) when the agency submits a draft rule to the Office of Information and Regulatory Affairs of the Office of Management and Budget under Executive Order 12866, if that order requires the submission; or

''(2) if no submission to the Office of Information and Regulatory Affairs is required—

''(A) a reasonable period before publication of the rule by the agency; and

''(B) in any event, not later than 3 months before the date on which the agency publishes the rule.''.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 604(a) of title 5, United States Code, is amended—

(A) by inserting ''detailed'' before ''description'' each place it appears;

(B) in paragraph (2)—

(i) by inserting ''detailed'' before ''statement'' each place it appears; and

(ii) by inserting ''(or certification of the proposed rule under section 605(b))'' after ''initial regulatory flexibility analysis'';

(C) in paragraph (4), by striking ''an explanation'' and inserting ''a detailed explanation''; and

(D) in paragraph (6) (relating to a description of steps taken to minimize significant economic impact), as added by section 1601 of the Small Business Jobs Act of 2010 (Public Law 111–240; 124 Stat. 2251), by inserting ''detailed'' before ''statement''.

(2) PUBLICATION OF ANALYSIS ON WEB SITE, ETC.—Section 604(b) of title 5, United States Code, is amended to read as follows:

''(b) The agency shall—

''(1) make copies of the final regulatory flexibility analysis available to the public, including by publishing the entire final regulatory flexibility analysis on the Web site of the agency; and

''(2) publish in the Federal Register the final regulatory flexibility analysis, or a summary of the analysis that includes the telephone number, mailing address, and address of the Web site where the complete final regulatory flexibility analysis may be obtained.''.

(c) CROSS-REFERENCES TO OTHER ANALYSES.—Section 605(a) of title 5, United States Code, is amended to read as follows:

''(a) A Federal agency shall be deemed to have satisfied a requirement regarding the content of a regulatory flexibility agenda or regulatory flexibility analysis under section 602, 603, or 604, if the Federal agency provides in the agenda or regulatory flexibility analysis a cross-reference to the specific portion of an agenda or analysis that is required by another law and that satisfies the requirement under section 602, 603, or 604.''.

(d) CERTIFICATIONS.—Section 605(b) of title 5, United States Code, is amended, in the second sentence, by striking ''statement providing the factual'' and inserting ''detailed statement providing the factual and legal''.

(e) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

''§ 607. Quantification requirements

''In complying with sections 603 and 604, an agency shall provide—

''(1) a quantifiable or numerical description of the effects of the proposed or final rule, including an estimate of the potential for job creation or job loss, and alternatives to the proposed or final rule; or

''(2) a more general descriptive statement regarding the potential for job creation or job loss and a detailed statement explaining why quantification under paragraph (1) is not practicable or reliable.''.

SEC. 11. ENSURING THAT AGENCIES CONSIDER SMALL ENTITY IMPACT DURING THE RULEMAKING PROCESS.

Section 605(b) of title 5, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) If, after publication of the certification required under paragraph (1), the head of the agency determines that there will be a significant economic impact on a substantial number of small entities, the agency shall comply with the requirements of section 603 before the publication of the final rule, by—

''(A) publishing an initial regulatory flexibility analysis for public comment; or

''(B) re-proposing the rule with an initial regulatory flexibility analysis.

''(3) The head of an agency may not make a certification relating to a rule under this subsection, unless the head of the agency has determined—

''(A) the average cost of the rule for small entities affected or reasonably presumed to be affected by the rule;

''(B) the number of small entities affected or reasonably presumed to be affected by the rule; and

''(C) the number of affected small entities for which that cost will be significant.

''(4) Before publishing a certification and a statement providing the factual basis for the certification under paragraph (1), the head of an agency shall—

''(A) transmit a copy of the certification and statement to the Chief Counsel for Advocacy of the Small Business Administration; and

''(B) consult with the Chief Counsel for Advocacy of the Small Business Administration on the accuracy of the certification and statement.''.

SEC. 12. QUALIFICATIONS OF THE CHIEF COUNSEL FOR ADVOCACY AND AUTHORITY FOR THE OFFICE OF ADVOCACY.

(a) QUALIFICATIONS OF CHIEF COUNSEL FOR ADVOCACY.—Section 201 of Public Law 94–305 (15 U.S.C. 634a) is amended by adding at the end the following: ''The Chief Counsel for Advocacy shall be an attorney with business experience and expertise in or knowledge of the regulatory process.''.

(b) ADDITIONAL POWERS OF OFFICE OF ADVOCACY.—Section 203 of Public Law 94–305 (15 U.S.C. 634c) is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (6) the following:

''(7) at the discretion of the Chief Counsel for Advocacy, comment on regulatory action by an agency that affects small businesses, without regard to whether the agency is required to file a notice of proposed rulemaking under section 553 of title 5, United States Code, with respect to the action.''.

SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) HEADING.—Section 605 of title 5, United States Code, is amended in the section heading by striking ''**Avoidance**'' and all that follows and inserting the following: ''**Incorporations by reference and certification.**''.

(b) TABLE OF SECTIONS.—The table of sections for chapter 6 of title 5, United States Code, is amended—

(1) by striking the item relating to section 605 and inserting the following:

''605. Incorporations by reference and certifications.''; and

(2) by striking the item relating to section 607 inserting the following:

''607. Quantification requirements.''.

By Mr. HARKIN (for himself, Ms. KLOBUCHAR, and Mr. FRANKEN):

S. 481. A bill to enhance and further research into the prevention and treatment of eating disorders, to improve access to treatment of eating disorders, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, today I am pleased to join with Senators KLOBUCHAR and FRANKEN to reintroduce the Federal Response to Eliminating Eating Disorders Act, or the FREED Act. The FREED Act is a comprehensive legislative effort to confront eating disorders in the United States, to learn more about their devastating impact, and to offer support and care to those who suffer from these illnesses.

Eating disorders such as anorexia nervosa, bulimia nervosa, and binge eating disorder are widespread, insidious, and too often fatal. Today, at least 5 million Americans suffer from eating disorders. Because these conditions often go undiagnosed and unreported, the actual number may be closer to 11 million Americans, including 1 million males. These disorders don't discriminate by gender, race, income, or age.

Eating disorders are dangerous conditions, though their consequences are often underestimated. Eating disorders are associated with serious heart conditions, kidney failure, osteoporosis, infertility, gastrointestinal disorders, and even death. The National Institute of Mental Health estimates that one in 10 people with anorexia nervosa will die of starvation, cardiac arrest, or some other medical complication. Let me repeat that—one in 10. That is deeply disturbing, and demands a much more aggressive federal response. Moreover, fatalities resulting from eating disorders are grossly underreported, because deaths are typically recorded by listing the immediate cause of death, such as cardiac arrest, rather than the underlying cause, which is the eating disorder.

Nonetheless, despite the prevalence and very serious health impacts of eating disorders, we simply do not know enough about the causes of eating disorders, or how to stop them from developing in the first place. Research suggests a genetic component to eating disorders, but we must learn more in order to effectively prevent these deadly conditions before they start.

The good news is that eating disorders are treatable. With appropriate nutritional, medical, and psychotherapeutic interventions, those who suffer from eating disorders can be successfully and fully treated and go on to live full and healthy lives. But right now, only one in 10 people receive treatment. We know how to help people with eating disorders and we need a renewed commitment to do just that.

The FREED Act takes an important step forward in authorizing resources for research, screening, treatment, and prevention of eating disorders.

First, the FREED Act expands research efforts at the National Institutes of Health to examine the causes and consequences of eating disorders. In order to effectively prevent and treat these conditions, it is imperative that we understand them. The FREED Act also improves surveillance and data collection systems at CDC so that we will have accurate information and epidemiological data on eating disorders. Such surveillance will provide us with the necessary information to be as effective as possible with our interventions.

Second, the FREED Act expands access to treatment services and screening for eating disorders for Medicaid beneficiaries, and authorizes funds for a patient advocacy network that will help individuals with eating disorders find treatment. Furthermore, the FREED Act improves the training and education of health care providers and educators so they know how to identify and treat individuals suffering from eating disorders. Too often, eating disorders go undiagnosed when health care providers lack the necessary training to identify these illnesses.

Finally, we need to step up crucial efforts to prevent these disorders from occurring in the first place. As I have said so many times, we don't have a genuine health care system in America; we have a sick care system. In other words, if you get sick, you get treatment. But we spend just pennies on the dollar to prevent disease and illness in the first place and need to place a much more robust emphasis on wellness, nutrition, physical activity, and public health. With this in mind, the FREED Act authorizes funds to develop and implement evidence-based prevention programs and promote healthy eating behaviors in schools, athletic programs, and other community-based programs, where we can reach Americans at risk of developing these conditions.

Eating disorders touch the lives of so many of us and our families and friends; nearly half of all Americans personally know someone with an eating disorder. We must do a better job at the federal level of conducting research, understanding treatment, and preventing these conditions. The FREED Act builds on the investments we made in prevention, wellness, and mental health in the Affordable Care Act and mental health parity. Millions of American will benefit from our attention to this significant public health problem.

I thank Senators KLOBUCHAR and FRANKEN for partnering with me on the reintroduction of this bill, and urge our colleagues to join us in supporting this important federal response to eating disorders.

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. 481

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 ''Federal Response to Eliminate Eating Disorders Act''.

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Estimates, based on current research, indicate that at least 5,000,000 people in the United States suffer from eating disorders including anorexia nervosa, bulimia nervosa, binge eating disorder, and eating disorders not otherwise specified (referred to in this Act as ''EDNOS'').

(2) Anecdotal evidence suggests that as many as 11,000,000 people in the United States, including 1,000,000 males, may suffer from eating disorders.

(3) Eating disorders occur in all nations and in all populations, and among people of all ages and races and of both genders.

(4) Eating disorders are diseases with grave health consequences and high rates of mortality.

(5) Health consequences associated with eating disorders include heart failure and other serious cardiac conditions, electrolyte imbalance, kidney failure, osteoporosis, debilitating tooth decay, and gastrointestinal disorders, including esophageal inflammation and rupture, gastric rupture, peptic ulcers, and pancreatitis.

(6) Anorexia nervosa has one of the highest overall mortality rates of any mental illness. According to the National Institute of Mental Health, 1 in 10 people with anorexia nervosa will die of starvation, cardiac arrest, or another medical complication.

(7) The risk of death among adolescents with anorexia nervosa is 11 times greater than in disease-free adolescents.

(8) Anorexia nervosa has the highest suicide rate of all mental illnesses.

(9) New research suggests that bulimia nervosa has a much higher rate of mortality than is reflected in current statistics, because of the failure to identify the underlying eating disorder.

(10) Binge eating disorder is the most common eating disorder, with an estimated 3.5 percent of American women and 2 percent of American men expected to suffer from this disorder in their lifetime. Binge eating disorder is characterized by frequent episodes of uncontrolled overeating and is associated with obesity, heart disease, gall bladder disease, and diabetes.

(11) Research demonstrates that there is a significant genetic component to the development of eating disorders.

(12) Certain populations, including adolescent females and athletes of both genders, are at higher risk of developing an eating disorder.

(13) Different types of eating disorders may affect certain races and genders disproportionately.

(14) Despite the serious health consequences and the high risk of death, Federal research funding for eating disorders has lagged behind research concerning other diseases, when compared by the number of individuals affected by, and the relative health consequences of, the diseases.

(15) The ability of individuals suffering from eating disorders, particularly bulimia nervosa, binge eating disorder, and EDNOS to access appropriate treatment is unacceptably low.

(16) The development of an eating disorder is frequently preceded by unhealthy weight control behaviors commonly identified as disordered eating, including skipping meals, using diet pills, taking laxatives, self-induced vomiting, and fasting. Such disordered eating behaviors should be included in enhanced research prevention and training efforts.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to expand research into the prevention of eating disorders;

(2) to expand research on effective treatment and intervention of eating disorders and to support evidence-based programs designed to prevent eating disorders;

(3) to expand research on the causes, courses, and outcomes of eating disorders;

(4) to increase the number of people properly screened and diagnosed with an eating disorder;

(5) to improve training and education of health care and behavioral care providers and of school personnel at all levels of elementary and secondary education;

(6) to improve surveillance and data systems for tracking the prevalence, severity, and economic costs of eating disorders; and

(7) to enhance access to comprehensive treatment for eating disorders.

TITLE I—EATING DISORDER DETECTION AND RESEARCH

SEC. 101. EXPANSION AND COORDINATION OF THE ACTIVITIES OF THE NATIONAL INSTITUTE OF HEALTH AND THE NATIONAL INSTITUTE OF MENTAL HEALTH WITH RESPECT TO RESEARCH ON EATING DISORDERS.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

"SEC. 409K. EXPANSION AND COORDINATION OF ACTIVITIES WITH RESPECT TO RESEARCH ON EATING DISORDERS.

''(a) IN GENERAL.—The Director of NIH, pursuant to the general authority of such director, shall expand, intensify, and coordinate the activities of the National Institutes of Health with respect to research on eating disorders.

''(b) GRANTS.—The Director of NIH may award grants to public or private entities to pay all or part of the cost of planning, establishing, improving, and providing basic operating support for such entities to establish consortia in eating disorder research and to carry out the activities described in subsection (e).

''(c) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall—

''(1) be public or nonprofit private entity (including a health department of a State, a political subdivision of a State, or an institution of higher education); and

''(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(d) REQUIREMENTS OF CONSORTIA.—

''(1) IN GENERAL.—Each consortium established as described in subsection (b) may use the facilities of a single lead institution, or may be formed from several cooperating institutions, meeting such requirements as may be prescribed by the Director of NIH.

''(2) COORDINATION OF CONSORTIA.—The Director of NIH—

''(A) may, as appropriate, provide for the coordination of information among consortia established under subsection (b); and

''(B) shall ensure regular communication between members of the various consortia established using grants awarded under this section.

''(3) REPORTS.—The Director of NIH shall require each consortium to prepare and submit to such director annual reports on the activities of such consortium.

''(e) ACTIVITIES.—Each consortium receiving a grant under subsection (b) shall conduct basic, clinical, epidemiological, population-based, or translational research regarding eating disorders, which may include research related to—

''(1) the identification and classification of eating disorders and disordered eating;

''(2) the causes, diagnosis, and early detection of eating disorders;

''(3) the treatment of eating disorders, including the development and evaluation of new treatments and best practices;

''(4) the conditions or diseases related to, or arising from, an eating disorder; and

''(5) the evaluation of existing prevention programs and the development of reliable prevention and screening programs.

''(f) COLLABORATION.—The Secretary, acting through the Director of NIH and the Director of the National Institute of Mental Health, shall identify relevant Federal agencies (including the other institutes and centers of the National Institutes of Health, the Centers for Medicare & Medicaid Services, the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality, the Substance Abuse and Mental Health Services Administration, the Health Resources and Services Administration, and the Office on Women's Health) that shall collaborate with respect to activities conducted under subsection (d).

''(g) PUBLIC INPUT.—The Director of NIH shall provide for a mechanism—

''(1) to educate and disseminate information on the existing and planned programs and research activities of the National Institutes of Health with respect to eating disorders; and

''(2) through which the Director of NIH may receive comments from the public regarding such programs and activities.

''(h) DISSEMINATION OF INFORMATION.—The Director of NIH shall provide for a mechanism for making the results and information generated by the consortia publicly available, such as through the Internet.

''(i) DEFINITION.—For purposes of this section, the term 'eating disorder' has the meaning given such term in section 399OO(e).

''(j) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2012 through 2016.''.

SEC. 102. INTERAGENCY COORDINATING COUNCIL; SURVEILLANCE AND RESEARCH PROGRAM; STUDY ON ECONOMIC COST.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

"PART W—PROGRAMS RELATING TO EATING DISORDERS

"SEC. 399OO. INTERAGENCY EATING DISORDERS COORDINATING COUNCIL.

''(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Interagency Eating Disorders Coordinating Council (referred to in this section as the 'Coordinating Council').

''(b) RESPONSIBILITIES.—The Coordinating Council shall—

''(1) develop and annually update a summary of advances in eating disorder research concerning causes of, prevention of, early screening for, treatment and access to services related to, and supports for individuals affected by, eating disorders;

''(2) monitor Federal activities with respect to eating disorders;

''(3) make recommendations to the Secretary regarding any appropriate changes to such activities, and to the Director of NIH, with respect to the strategic plan developed under paragraph (4);

''(4) develop and annually update a strategic plan for the conduct of, and support for, eating disorder research, including proposed budgetary recommendations; and

''(5) submit annually to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives the strategic plan developed under paragraph (4) and all updates to such plan.

''(c) MEMBERSHIP.—

''(1) CHAIRPERSON.—The Director of NIH shall serve as the chairperson of the Coordinating Council and shall be responsible for the leadership and oversight of the activities of the Coordinating Council.

''(2) MEMBERS IN GENERAL.—The Coordinating Council shall be composed of—

''(A) representatives of—

''(i) the Agency for Healthcare Research and Quality;

''(ii) the Substance Abuse and Mental Health Administration;

''(iii) the research institutes at the National Institutes of Health, as the Director of NIH determines appropriate;

''(iv) the Health Resources and Services Administration;

''(v) the Centers for Medicare & Medicaid Services;

''(vi) the Office on Women's Health;

''(vii) the Centers for Disease Control and Prevention;

''(viii) the Department of Education; and

''(ix) any other Federal agency that the chairperson determines is appropriate; and

''(B) the additional members appointed under paragraph (3).

''(3) ADDITIONAL MEMBERS.—Not fewer than ⅓ of the total membership of the Coordinating Council shall be composed of non-Federal public members to be appointed by the Secretary, including representatives of—

''(A) academic medical centers or schools of medicine, nursing, or other health professions;

''(B) health care professionals who are actively involved in the treatment of eating disorders;

''(C) researchers with expertise in eating disorders; and

''(D) at least 2 individuals with a past or present diagnosis of an eating disorder or parents of individuals with a past or present diagnosis of an eating disorder.

''(d) ADMINISTRATIVE SUPPORT; TERMS OF SERVICE; OTHER PROVISIONS.—

''(1) ADMINISTRATIVE SUPPORT.—The Coordinating Council shall receive necessary and appropriate administrative support from the Secretary.

''(2) TERMS OF SERVICE.—Members of the Coordinating Council appointed under subsection (c)(2) shall serve for a term of 4 years, and may be reappointed for one or more additional 4 year-terms. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office.

''(3) MEETINGS.—

''(A) IN GENERAL.—The Coordinating Council shall meet at the call of the chairperson or upon the request of the Secretary. The Coordinating Council shall meet not fewer than 2 times each year.

''(B) NOTICE.—Notice of any upcoming meeting of the Coordinating Council shall be published in the Federal Register.

''(C) PUBLIC ACCESS.—Each meeting of the Coordinating Council shall be open to the public and shall include appropriate periods of time for questions by the public.

''(4) SUBCOMMITTEES.—In carrying out its functions the Coordinating Council may establish subcommittees and convene workshops and conferences.

''(e) EATING DISORDER.—In this part, the term 'eating disorder' includes anorexia nervosa, bulimia nervosa, binge eating disorder, and eating disorders not otherwise specified, as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders or any subsequent edition.

''(f) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2012 through 2016.

''SEC. 399OO–1. EATING DISORDER SURVEILLANCE AND RESEARCH PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants or cooperative agreements to eligible entities for the purpose of improving the collection, analysis and reporting of State epidemiological data on eating disorders.

''(b) ACTIVITIES.—An eligible entity shall assist with the development and coordination of eating disorder surveillance efforts within a region and may—

''(1) provide for the collection, analysis, and reporting of epidemiological data on eating disorders through the existing surveillance programs;

''(2) develop recommendations to enhance existing surveillance programs to more accurately collect epidemiological data on disordered eating and eating disorders, including the prevalence, incidence, trends, correlates, mortality, and causes of eating disorders and the effects of eating disorders on quality of life;

''(3) develop recommendations to improve requirements for ensuring that eating disorders are accurately recorded as underlying and contributing causes of death; and

''(4) assist with the development and coordination of surveillance efforts within a region.

''(c) ELIGIBLE ENTITIES.—To be eligible to receive an award under this section, an entity shall—

''(1) be a public or nonprofit private entity (including a health department of a State, a political subdivision of a State, or an institution of higher education); and

''(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(d) TECHNICAL ASSISTANCE.—In making awards under this section, the Secretary may provide direct technical assistance in lieu of cash.

''(e) REPORTS.—Each entity awarded a grant or cooperative agreement under this section shall annually submit to the Secretary a report describing the activities conducted using grant funds and providing recommendations for improving the collection, analysis, and reporting of epidemiological data on eating disorders.

''(f) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2012 through 2016.

''SEC. 399OO–2. STUDY REGARDING ECONOMIC COSTS OF EATING DISORDERS.

''Not later than 18 months after the date of enactment of the Federal Response to Eliminate Eating Disorders Act, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall conduct a study evaluating the economic costs of eating disorders. Such study may examine years of productive life lost, missed days of work, reduced work productivity, costs of medical and mental health treatment, costs to family, and costs to society as a result of eating disorders.''.

TITLE II—EATING DISORDER EDUCATION AND PREVENTION; STUDIES ON EATING DISORDERS AND BODY MASS INDEX; PUBLIC SERVICE ANNOUNCEMENTS

SEC. 201. GRANTS TO PREVENT EATING DISORDERS.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 102, is further amended by adding at the end the following:

''SEC. 399OO–3. GRANTS TO PREVENT EATING DISORDERS.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the Administrator of the Health Resources and Services Administration, shall award grants to eligible entities to plan, implement, and evaluate programs to prevent eating disorders and obesity and the acute and chronic medical conditions that accompany such conditions, and to promote healthy body image and appropriate nutrition-based eating behaviors.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a State, local or tribal educational agency, an accredited institution of higher education, a State or local health department, or a community based organization; and

''(2) submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(c) USE OF FUNDS.—An entity receiving a grant under this section shall fund development and testing of school-, clinic-, community-, or health department-based programs designed to promote healthy eating behaviors and to prevent eating disorders including—

''(1) developing evidence-based interventions to prevent eating disorders, including educational or intervention programs regarding nutritional content, understanding and responding to hunger and satiety, positive body image development, positive self-esteem development, and life skills, that take into account cultural and developmental issues and the role of family, school, and community;

''(2) planning and implementing a healthy lifestyle curriculum or program with an emphasis on healthy eating behaviors, physical activity, and emotional wellness, the connection between emotional and physical health, and the prevention of bullying based on body size, shape, and weight;

''(3) forming partnerships with parents and caregivers to educate adults about identifying unhealthy eating behaviors and promoting healthy eating behaviors, physical activity, and emotional wellness; and

''(4) integrating eating disorder prevention and awareness in physical education, health, education, athletic training programs, and after-school recreational sports programs, to the extent possible.

''(d) REQUIREMENTS OF GRANT RECIPIENTS.—

''(1) LIMITATION ON ADMINISTRATIVE EXPENSES.—A recipient of a grant under this section shall not use more than 10 percent of the amounts received under a grant under this section for administrative expenses.

''(2) CONTRIBUTION OF FUNDS.—A recipient of a grant under this section, and any entity receiving assistance under the grant for training and education, shall contribute non-Federal funds, either directly or through in-kind contributions, to the costs of the activities to be funded under the grant in an amount that is not less than 10 percent of the total cost of such activities.

''(3) EVALUATION.—Each recipient of a grant under this section shall provide to the Secretary, in such form and manner as the Secretary shall specify, relevant data and an evaluation of the activities of the grant recipient in promoting healthy eating behaviors and preventing eating disorders. Evaluation reports shall be made publicly available, such as through the Internet.

''(e) TECHNICAL ASSISTANCE.—The Secretary may set aside an amount not to exceed 1 percent of the total amount appropriated for a fiscal year to provide grantees with technical support in the development, implementation, and evaluation of programs under this section and to disseminate information about preventing and treating eating disorders and obesity.

''SEC. 399OO–4. STUDY OF EATING DISORDERS IN ELEMENTARY SCHOOLS, SECONDARY SCHOOLS, AND INSTITUTIONS OF HIGHER EDUCATION.

''Not later than 18 months after the date of enactment of the Federal Response to Eliminate Eating Disorders Act, the National Center for Health Statistics of the Centers for Disease Control and Prevention and the National Center for Education Statistics of the Department of Education shall conduct a joint study, or enter into a contract to have a study conducted, on the impact eating disorders have on educational advancement and achievement. The study shall—

''(1) determine the incidence of eating disorders and disordered eating among students, and the morbidity and mortality rates associated with eating disorders;

''(2) evaluate the extent to which students with eating disorders are more likely to miss school, have delayed rates of development, or have reduced cognitive skills;

''(3) report on current State and local programs to increase awareness about the dangers of eating disorders among youth and to prevent eating disorders and the risk factors for eating disorders, and evaluate the value of such programs; and

''(4) make recommendations on measures that could be undertaken by Congress, the Department of Education, States, and local educational agencies to strengthen eating

disorder prevention and awareness programs including development of best practices.

"SEC. 399OO–5. STUDY OF THE SUITABILITY OF MANDATING BODY MASS INDEX REPORTING IN ELEMENTARY SCHOOLS AND SECONDARY SCHOOLS.

''Not later than 18 months after the date of enactment of the Federal Response to Eliminate Eating Disorders Act, the Director of the Centers for Disease Control and Prevention, in consultation with the Secretary of Education, shall conduct a study on mandatory reporting of body mass index, including—

''(1) how many schools are currently conducting mandatory reporting of body mass index;

''(2) how schools are assessing the impacts of such mandatory reporting on body mass index; and

''(3) how schools are assessing potential unintended consequences of such mandatory reporting on students, including those related to parent and peer relations.

"SEC. 399OO–6. PUBLIC SERVICE ADVERTISEMENTS.

''The Secretary, in consultation with the Director of the National Institutes of Health and the Secretary of Education, shall carry out a program to develop, distribute, and promote the broadcasting of public service announcements to improve public awareness of, and to promote the identification and prevention, of eating disorders.

"SEC. 399OO–7. AUTHORIZATION OF APPROPRIATIONS.

''To carry out sections 399OO–3, 399OO–4, 399OO–5, and 399OO–6, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2012 through 2016.''.

SEC. 202. SENSE OF THE SENATE.

It is the sense of the Senate that critically necessary programs to reduce obesity in children may also unintentionally increase the unhealthy weight control behaviors that can lead to development of eating disorders, and that federally funded programs to combat obesity should take this connection into consideration.

TITLE III—IMPROVING TRAINING IN HEALTH PROFESSIONS, EDUCATION, AND RELATED FIELDS

SEC. 301. GRANTS FOR HEALTH PROFESSIONALS.

Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by adding at the end the following:

"SEC. 760. GRANTS FOR HEALTH PROFESSIONALS.

''(a) GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, in collaboration with the Director of the Centers for Disease Control and Prevention, shall award grants under this section to develop interdisciplinary training and education programs that provide undergraduate, graduate, post-graduate medical, nursing (including advanced practice nursing students), dental, mental and behavioral health, pharmacy, and other health professions students or residents with an understanding of, and clinical skills pertinent to identifying and treating, eating disorders.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section an entity shall—

''(1) be an accredited school of allopathic or osteopathic medicine, or an accredited school of nursing, public health, social work, dentistry, behavioral and mental health, or pharmacy, or an accredited medical, dental, or nursing residency program;

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) USE OF FUNDS.—

''(1) REQUIRED USES.—Amounts provided under a grant awarded under this section shall be used to fund interdisciplinary training and education projects that are designed to train medical, nursing, and other health professions students and residents to—

''(A) better identify patients at-risk of becoming overweight or obese or developing an eating disorder;

''(B) detect overweight or obesity or eating disorders among a diverse patient population;

''(C) counsel, refer, or treat patients with overweight or obesity or an eating disorder;

''(D) educate patients and the families of patients about effective strategies to establish healthy eating habits and appropriate levels of physical activity; and

''(E) assist in the creation and administration of community-based overweight and obesity and eating disorder prevention efforts.''

''(2) PERMISSIVE USE.—Amounts provided under a grant under this section may be used to offer community-based training opportunities in rural areas for medical, nursing, and other health professions students and residents on eating disorders, which may include the use of distance learning networks and other available technologies needed to reach isolated rural areas.

''(d) REQUIREMENTS OF GRANTEES.—

''(1) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee shall not use more than 10 percent of the amounts received under a grant under this section for administrative expenses.

''(2) CONTRIBUTION OF FUNDS.—A grantee under this section, and any entity receiving assistance under the grant for training and education, shall contribute non-Federal funds, either directly or through in-kind contributions, to the costs of the activities to be funded under the grant in an amount that is not less than 10 percent of the total cost of such activities.

''(e) EATING DISORDER.—In this section, the term 'eating disorder' has the meaning given such term in section 399OO(e).

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years 2012 through 2016.''.

SEC. 302. TRAINING IN ELEMENTARY AND SECONDARY SCHOOLS.

Section 5131(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7215(a)) is amended by adding at the end the following:

''(28) Programs to improve the identification of students with eating disorders (as defined in section 399OO of the Public Health Service Act), increase awareness of such disorders among parents and students, and train educators (including teachers, school nurses, school social workers, coaches, school counselors, and administrators) on effective eating disorder prevention, screening, detection and assistance methods.''.

TITLE IV—IMPROVING AVAILABILITY AND ACCESS TO TREATMENT

SEC. 401. MEDICAID COVERAGE FOR EATING DISORDER TREATMENT SERVICES.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in subsection (a)—

(A) in paragraph (28), by striking ''and'' at the end;

(B) by redesignating paragraph (29) as paragraph (30); and

(C) by inserting after paragraph (28) the following new paragraph:

''(29) eating disorder treatment services (as defined in subsection (ee)(1)); and''; and

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

''(ee) EATING DISORDER TREATMENT SERVICES.—

''(1) DEFINITION.—The term 'eating disorder treatment services' means services relating to diagnosis and treatment of an eating disorder (as defined in section 399OO of the Public Health Service Act), including screening, counseling, pharmacotherapy (including coverage of drugs described in paragraph (2)), and other necessary health care services.

''(2) COVERAGE FOR PHARMACOLOGICAL TREATMENT OF EATING DISORDERS.—For purposes of paragraph (1), eating disorder treatment services shall include drugs provided as part of care in an inpatient setting, covered outpatient drugs (as defined in section 1927(k)(2)), and non-prescription drugs described in section 1927(d)(2)(A) that are prescribed, in accordance with generally accepted medical guidelines, for treatment of an eating disorder.''.

(b) INCREASED FMAP FOR EATING DISORDER TREATMENT SERVICES.—

(1) EFFECTIVE UNTIL JANUARY 1, 2013.—Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended in the first sentence—

(A) by striking ''and'' before ''(4)''; and

(B) by inserting before the period at the end the following: '', and (5) the Federal medical assistance percentage shall be equal to the enhanced FMAP described in section 2105(b) with respect to medical assistance for eating disorder treatment services (as defined in subsection (ee)(1)) provided to an individual who is eligible for such assistance and has an eating disorder (as defined in section 399OO of the Public Health Service Act)''.

(2) EFFECTIVE JANUARY 1, 2013.—Section 4106(b) of the Patient Protection and Affordable Care Act (Public Law 111–148) is amended—

(A) in paragraph (1), by striking ''(4)'' each time such term appears and inserting ''(5)''; and

(B) in paragraph (2), by striking '', and (5)'' and inserting '', and (6)''.

(c) INCLUSION IN EPSDT SERVICES.—Section 1905(r)(1)(B) of such Act (42 U.S.C. 1396d(r)(1)(B)) is amended—

(1) in clause (iv), by striking ''and'' at the end;

(2) in clause (v), by striking the period at the end and inserting ''; and''; and

(3) by inserting after clause (v) the following new clause:

''(vi) appropriate diagnostic services relating to eating disorders (as defined in section 399OO of the Public Health Service Act).''.

(d) EXCEPTION FROM OPTIONAL RESTRICTION UNDER MEDICAID DRUG COVERAGE.—Section 1927(d)(2)(A) of such Act (42 U.S.C. 1396r–8(d)(2)(A)) is amended by inserting before the period at the end the following: '', except for drugs that are prescribed, in accordance with generally accepted medical guidelines, for the purpose of treatment of an individual who is eligible for medical assistance under the State plan and has an eating disorder (as defined in section 399OO of the Public Health Service Act)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs and services furnished on or after January 1, 2012.

SEC. 402. GRANTS TO SUPPORT PATIENT ADVOCACY.

Subpart II of part D of title IX of the Public Health Service Act is amended by adding at the end the following:

"SEC. 938. GRANTS TO SUPPORT PATIENT ADVOCACY.

''(a) GRANTS.—The Secretary, acting through the Director, shall award grants under this section to develop and support patient advocacy work to help individuals with eating disorders obtain adequate health care services and insurance coverage.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be a public or nonprofit private entity (including a health department of a State or tribal agency, a community-based organization, or an institution of higher education);

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

''(A) comprehensive strategies for advocating on behalf of, and working with, individuals with eating disorders or at risk for developing eating disorders;

''(B) a plan for consulting with community-based coalitions, treatment centers, or eating disorder research experts who have experience and expertise in issues related to eating disorders or patient advocacy in providing services under a grant awarded under this section; and

''(C) a plan for financial sustainability involving State, local, and private contributions.

''(c) USE OF FUNDS.—Amounts provided under a grant awarded under this section shall be used to support patient advocacy work, including—

''(1) providing education and outreach in community settings regarding eating disorders and associated health problems, especially among low-income, minority, and medically underserved populations;

''(2) facilitating access to appropriate, adequate, and timely health care for individuals with eating disorders and associated health problems;

''(3) assisting in communication and cooperation between patients and providers;

''(4) representing the interests of patients in managing health insurance claims and plans;

''(5) providing education and outreach regarding enrollment in health insurance, including enrollment in the Medicare program under title XVIII of the Social Security Act, the Medicaid program under title XIX of such Act, and the Children's Health Insurance Program under title XXI of such Act;

''(6) identifying, referring, and enrolling underserved populations in appropriate health care agencies and community-based programs and organizations in order to increase access to high-quality health care services;

''(7) providing technical assistance, training, and organizational support for patient advocates; and

''(8) creating, operating, and participating in State or regional networks of patient advocates.

''(d) REQUIREMENTS OF GRANTEES.—

''(1) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee shall not use more than 5 percent of the amounts received under a grant under this section for administrative expenses.

''(2) CONTRIBUTION OF FUNDS.—A grantee under this section, and any entity receiving assistance under the grant for training and education, shall contribute non-Federal funds, either directly or through in-kind contributions, to the costs of the activities to be funded under the grant in an amount that is not less than 75 percent of the total cost of such activities.

''(3) REPORTING TO SECRETARY.—A grantee under this section shall annually submit to the Secretary a report, at such time, in such manner, and containing such information as the Secretary may require, including a description and evaluation of the activities described in subsection (c) carried out by such entity.

''(e) EATING DISORDER.—In this section, the term 'eating disorder' has the meaning given such term in section 399OO(e).

''(f) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 2012 through 2016.''.

By Mr. REED (for himself, Mr. DURBIN, Mr. MERKLEY, Mr. WHITEHOUSE, Mr. FRANKEN, and Mr. LEAHY):

S. 489. A bill to require certain mortgagees to evaluate loans for modifications, to establish a grant program for State and local government mediation programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REED. Mr. President, today I am introducing the Preserving Homes and Communities Act. I introduced an earlier version of this legislation in 2009. I am pleased to again be joined by Senators DURBIN, LEAHY, MERKLEY, WHITEHOUSE, and FRANKEN as cosponsors of this bill.

The sheer number of foreclosures across the country is startling. Since the beginning of 2009, there have been approximately 5 million foreclosures, and the Center for Responsible Lending estimates there will be a total of 9 million foreclosures between 2009 and 2012. In my home state of Rhode Island, the numbers are similarly shocking because 1 in every 10 mortgaged homeowners is in foreclosure or seriously delinquent on their mortgage payment.

Rhode Island families have felt the effects of the recession and the national housing crisis harder than most, which is why I worked with the Obama Administration and led the effort to expand the Hardest Hit Fund to include Rhode Island. This program is just getting underway, and my hope is that it will provide much needed targeted assistance to struggling homeowners and expand the number of loss mitigation tools in order to prevent more Rhode Islanders from falling into foreclosure.

Unfortunately, additional efforts are needed because the foreclosure crisis has grown in complexity as a result of the revelations last fall pointing to poorly handled, if not illegal, foreclosure processing. Cutting these corners at the risk of severe legal consequences raises serious questions about not only the value of mortgage related investments, but also the loan modification efforts of servicers.

I will persist in my efforts to fight improper foreclosures and to bring Rhode Islanders the relief they deserve, and this commitment continues today with the introduction of the Preserving Homes and Communities Act. This bill has been updated and enhanced from its predecessor in the last Congress to reflect the fact that some provisions have been enacted into law and to address emerging issues that are standing in the way of saving as many homes as possible.

Most importantly, this bill, like the one I introduced in 2009, eliminates the so called ''dual-track'' in which a homeowner is evaluated for a home loan modification while simultaneously being foreclosed upon. The prospect of losing one's home is daunting enough, and unfortunately, too many troubled homeowners have received a modification notice one day followed by a foreclosure notice the next day. This is just too confusing and injects additional uncertainty at the most unnerving time for a troubled homeowner. Simply put, there should be no dual track. There should be one track, and while a troubled homeowner is being evaluated for a loan modification, they should have the comfort of knowing that foreclosure proceedings will not be initiated. This bill establishes this single track.

Second, in light of the repeated difficulties that troubled homeowners have faced in contacting and remaining in touch with their servicers, this bill continues to provide a means for more State and local governments to establish mediation programs. These programs provide a process by which a neutral third party presides over discussions between homeowners and servicers to review and discuss alternatives to foreclosure.

Third, with this bill, I continue my efforts to fund the National Housing Trust Fund, which would enable the building, preservation, and rehabilitation of affordable rental housing through the proceeds received from the warrant provisions I crafted for the financial rescue package in 2008. These warrant provisions ensured that as banking institutions recovered from their near collapse, American taxpayers, who bankrolled their recovery, would also benefit from the upside. To date, more than $8 billion in warrant proceeds have been recouped by taxpayers. As I have stated before, my view is that some of these returns from providing a firmer foundation for our financial institutions would be put to good use by providing a firmer foundation for affordable rental housing in our country by finally funding the National Housing Trust Fund.

This bill also has several new provisions. First, in response to repeated concerns that the loan modification process has been lacking in transparency, this bill creates a dispute resolution mechanism within the loan modification process itself. Under this bill, troubled homeowners and servicers may work out their disagreements with a neutral third party on a fair playing field with all the information required to evaluate whether a home loan modification application was properly evaluated.

Second, this legislation addresses the recent robo-signing allegations by requiring servicers, if a home loan modification is denied, to prove that they actually have the legal right to foreclose.

Third, this bill responds to difficulties faced by individuals who, for example, have come to own and live in a mortgaged home through the death of a loved one. These unfortunate life events are tough enough. As long as these individuals live in these homes as

their primary residences and are having difficulties paying their mortgages due to financial hardship, they too would have to be evaluated for a loan modification before banks could foreclose under my legislation.

Fourth, this bill adds another provision to the section placing reasonable limits on foreclosure fees and costly markups by prohibiting abusive fees charged in response to lapsed home insurance policies. Under this bill, when a home insurance policy lapses, the servicer may only charge a fee in an amount equal to the cost of continuing or re-establishing the home insurance policy. No more, and no less.

Lastly, I think it's important to make one final point about this bill. It provides the means for servicers to legitimately evaluate struggling homeowners for loan modifications, but it does not require servicers to work with homeowners who have clearly abandoned their homes, as determined by the Secretary of Housing and Urban Development. This bill is narrowly and responsibly tailored to prevent foreclosures that can be avoided and to ensure that all finalized foreclosures are properly and objectively processed. In short, this legislation is fair.

The foreclosure crisis has persisted for far too long, and it is time to finally address this issue once and for all. The Preserving Homes and Communities Act provides a path to stabilizing the housing sector as a means of bolstering and sustaining our economic recovery. I hope my colleagues will join me and Senators DURBIN, LEAHY, MERKLEY, WHITEHOUSE, and FRANKEN in supporting this bill and taking the legislative steps necessary to address foreclosures.

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. 489

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 ''Preserving Homes and Communities Act of 2011''.

SEC. 2. DEFINITION.

In this Act, the term ''Secretary'' means the Secretary of Housing and Urban Development.

SEC. 3. LOAN MODIFICATION REQUIREMENTS.

(a) DEFINITIONS.—In this section—

(1) the term ''covered mortgagee'' means—

(A) an original lender under a federally related mortgage loan;

(B) any servicer, affiliate, agent, subsidiary, successor, or assignee of a lender under a federally related mortgage loan; and

(C) any purchaser, trustee, or transferee of any mortgage or credit instrument issued by an original lender under a federally related mortgage loan;

(2) the term ''covered mortgagor''—

(A) means an individual—

(i) who—

(I) is a mortgagor under a federally related mortgage loan—

(aa) made by a covered mortgagee; and

(bb) secured by the principal residence of the mortgagor; or

(II) is eligible to assume a federally related mortgage loan described in clause (I) in a manner described in paragraph (3), (5), (6), or (7) of section 341(d) of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1701j–3(d)), if the principal residence of the individual is the principal residence securing the federally related mortgage loan; and

(ii) who cannot make payments on a federally related mortgage loan due to financial hardship, as determined by the Secretary, in consultation with the Secretary of the Treasury and the Director of the Bureau of Consumer Financial Protection; and

(B) does not include an individual who the Secretary, in consultation with the Secretary of the Treasury and the Director of the Bureau of Consumer Financial Protection, determines has abandoned the principal residence securing the federally related mortgage loan;

(3) the term ''federally related mortgage loan'' has the same meaning as in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602);

(4) the term ''home loan modification protocol'' means a home loan modification protocol that—

(A) is developed under a home loan modification program developed or put into effect by the Secretary of the Treasury, the Secretary, or the Director of the Bureau of Financial Protection;

(B) includes principal reduction; and

(C) to the extent possible, in the case of real property on which there is a first lien and a subordinate lien securing a federally related mortgage loan, requires that any principal reduction with respect to the first lien be accompanied by a proportional principal reduction with respect to the subordinate lien;

(5) the term ''qualified loan modification'' means a modification to the terms of a mortgage agreement between a covered mortgagee and a covered mortgagor that—

(A) is made pursuant to a determination by the covered mortgagee using a home loan modification protocol that a modification would—

(i) produce a greater net present value than not modifying the loan to—

(I) the covered mortgagee; or

(II) in the aggregate, all persons that hold an interest in the mortgage agreement; and

(ii) produce mortgage payments that, at a minimum, are reduced to an affordable and sustainable amount, based on a debt-to-income ratio that takes into account the total housing debt and gross household income of the covered mortgagor;

(B) applies for the remaining term of the original mortgage agreement, prior to modification or amendment; and

(C) permits the maximum amount of principal reduction that produces a greater net present value than foreclosure to the persons described in subparagraph (A)(i); and

(6) the term ''State'' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(b) LOAN MODIFICATION PROCEDURES.—

(1) INITIATION OF FORECLOSURE.—A covered mortgagee may not initiate a nonjudicial foreclosure or a judicial foreclosure against a covered mortgagor that is otherwise authorized under State law unless—

(A) the covered mortgagee has used its best efforts to determine whether the covered mortgagor is eligible for a qualified loan modification;

(B) in the case of a covered mortgagor who the covered mortgagee determines is eligible for a qualified loan modification, the covered mortgagee has used its best efforts to promptly offer a qualified loan modification to the covered mortgagor; and

(C) in the case of a covered mortgagor who the covered mortgagee determines is not eligible for a qualified loan modification, the covered mortgagee has made available to the covered mortgagor documentation of—

(i) a loan modification calculation or net present value calculation, including the information necessary to verify and evaluate the calculation, made by the covered mortgagee in relation to the federally related mortgage using a home loan modification protocol;

(ii) the loan origination, including any note, deed of trust, or other document necessary to establish the right of the mortgagee to foreclose on the mortgage, including proof of assignment of the mortgage to the mortgagee and the right of the mortgagee to enforce the relevant note under the law of the State in which the real property securing the mortgage is located;

(iii) any pooling and servicing agreement that the covered mortgagee believes prohibits a qualified loan modification;

(iv) the payment history of the covered mortgagor and a detailed accounting of any costs or fees associated with the account of the covered mortgagor; and

(v) the specific alternatives to foreclosure considered by the covered mortgagee, including qualified loan modifications, workout agreements, and short sales.

(2) FORECLOSURE IN PROGRESS.—If a covered mortgagee initiated a nonjudicial foreclosure or a judicial foreclosure proceeding against a covered mortgagor before the date of enactment of this Act, the covered mortgagee—

(A) shall use its best efforts to take all steps necessary to—

(i) suspend the foreclosure or foreclosure proceeding, as permitted under the law of the State in which the real property securing the federally related mortgage loan is located, including the cancellation of any sale date that has been scheduled with respect to the real property securing the federally related mortgage loan; and

(ii) toll any deadlines limiting the rights of the covered mortgagor, whether imposed by statute, scheduling order, or otherwise, until the covered mortgagee has complied with the requirements under this section; and

(B) may not—

(i) conduct or schedule a sale of the real property securing the federally related mortgage loan; or

(ii) cause judgment to be entered against the covered mortgagor.

(3) REEVALUATION OF APPLICATION FOR QUALIFIED LOAN MODIFICATION.—If, after receiving information under paragraph (1)(C), a covered mortgagor is able to demonstrate that the covered mortgagor is eligible for a qualified loan modification, the covered mortgagee shall—

(A) promptly reevaluate the application by the covered mortgagor for a qualified loan modification; and

(B) if the covered mortgagor is eligible, offer the covered mortgagor a qualified loan modification.

(4) DISPUTE RESOLUTION.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury, the Secretary, and the Director of the Bureau of Financial Protection shall ensure that any home loan modification protocol established by the Secretary of the Treasury, the Secretary, or the Director of the Bureau of Financial Protection, respectively, includes a procedure with a neutral third party to resolve disputes between covered mortgagors

and covered mortgagees regarding applications for qualified loan modifications.

(5) NO WAIVER OF RIGHTS.—A covered mortgagee may not require a covered mortgagor to waive any right of the covered mortgagor as a condition of making a qualified loan modification.

(6) CERTIFICATION REQUIRED PRIOR TO SALE OF REAL PROPERTY SECURING MORTGAGE.—

(A) CERTIFICATION.—A covered mortgagee shall submit to the appropriate State entity in the State in which the real property securing a federally related mortgage loan is located a certification that the covered mortgagee has complied with all requirements of this section, before—

(i) the covered mortgagee may sell the real property; or

(ii) a purchaser at sale may file an action to recover possession of the real property.

(B) RECORDATION OF DEED PROHIBITED WITHOUT CERTIFICATION.—The government official responsible for recording deeds and other transfers of real property in a jurisdiction may not permit the recordation of a deed transferring title after a foreclosure relating to a federally related mortgage loan in the jurisdiction unless the government official certifies that—

(i) the person conducting the sale has demonstrated that the requirements of this subsection have been met with respect to the federally related mortgage loan; or

(ii) the requirements of this subsection do not apply to the federally related mortgage loan.

(C) VOIDING OF SALE.—A sale of property in violation of this subsection is void.

(D) REGULATIONS.—The Secretary, in consultation with the Secretary of the Treasury and Director of the Bureau of Consumer Financial Protection, shall issue regulations establishing the content of the certification under this subparagraph.

(7) BAR TO FORECLOSURE.—Failure to comply with this subsection is a bar to foreclosure under the applicable law of a State.

(8) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prevent a covered mortgagee from offering or making a loan modification with a lower payment, lower interest rate, or principal reduction beyond that required by a modification made using a home loan modification protocol with respect to a covered mortgagor.

(c) FEES PROHIBITED.—

(1) LOAN MODIFICATION FEES PROHIBITED.—A covered mortgagee may not charge a fee to a covered mortgagor for carrying out the requirements under subsection (b).

(2) FORECLOSURE-RELATED FEES.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and (C), a covered mortgagee may not charge a foreclosure-related fee to a covered mortgagor before—

(i) the covered mortgagee has made a determination under subsection (b)(1); and

(ii) the mortgage has entered the foreclosure process.

(B) DELINQUENCY FEES.—A covered mortgagee may charge 1 delinquency fee for each late payment by a covered mortgagor, if the fee is specified by the mortgage agreement and permitted by other applicable Federal and State law. A delinquency fee may be collected only once on an installment however long it remains in default.

(C) OTHER FEES.—A covered mortgagee may charge a covered mortgagor 1 property valuation fee and 1 title search fee in connection with a foreclosure.

(3) FEES NOT IN CONTRACT.—A covered mortgagee may charge a fee to a covered mortgagor only if—

(A) the fee was specified by the mortgage agreement before a modification or amendment; and

(B) the fee is otherwise permitted under this subsection.

(4) FEES FOR EXPENSES INCURRED.—

(A) IN GENERAL.—A covered mortgagee may charge a fee to a covered mortgagor only—

(i) for services actually performed by the covered mortgagee or a third party in relation to the mortgage agreement, before a modification or amendment; and

(ii) if the fee is reasonably related to the actual cost of providing the service.

(B) HOME PRESERVATION SERVICES.—A covered mortgagee may charge a fee to a covered mortgagor for home preservation services, only if the covered mortgagor has not submitted a payment under the federally related mortgage during the 60-day period ending on the date the fee is charged.

(5) FORCEPLACED INSURANCE.—

(A) FEE PERMITTED.—If a home insurance policy on the real property securing a federally related mortgage loan lapses due to the failure of a covered mortgagor to make a payment, a covered mortgagee may charge the covered mortgagor a fee in an amount equal to the actual cost of continuing or reestablishing the home insurance policy on the same terms in effect before the lapse.

(B) RECOVERY OF FEE.—A covered mortgagee may recover the fee described in subparagraph (A)—

(i) by establishing an escrow account in accordance with section 10 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609); or

(ii) in equal monthly amounts during one 12-month period.

(6) PENALTY.—The Director of the Bureau of Consumer Financial Protection shall collect from any covered mortgagee that charges a fee in violation of this subsection an amount equal to $6,000 for each such fee.

(d) REGULATIONS.—Not later than 3 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Treasury and the Director of the Bureau of Consumer Financial Protection, shall issue by notice any requirements to carry out this section. The Secretary shall subsequently issue, after notice and comment, final regulations to carry out this section.

(e) BUREAU OF CONSUMER FINANCIAL PROTECTION HOME LOAN MODIFICATION PROTOCOL.—Not later than 90 days after the date of enactment of this Act, the Director of the Bureau of Consumer Financial Protection shall develop a home loan modification protocol.

(f) TREASURY AND HUD HOME LOAN MODIFICATION PROTOCOLS.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury and the Secretary shall make any changes to the home loan modification protocol of the Secretary of the Treasury and the Secretary, respectively, that are necessary to carry out this Act.

SEC. 4. MEDIATION INITIATIVES.

(a) DEFINITIONS.—In this section—

(1) the term ''mortgagee'' includes the agent of a mortgagee; and

(2) the term ''mediation'' means a process in which a neutral third party presides over discussions between mortgagors and mortgagees to review and discuss available loss mitigation options in order to avoid foreclosure.

(b) GRANT PROGRAM ESTABLISHED.—The Secretary shall establish a grant program to make competitive grants to State and local governments to establish mediation programs that assist mortgagors facing foreclosure.

(c) MEDIATION PROGRAMS.—A mediation program established using a grant under this section shall—

(1) require participation in the program by—

(A) any mortgagee that seeks to initiate or has initiated a judicial or nonjudicial foreclosure; and

(B) any mortgagor who is subject to a judicial or nonjudicial foreclosure;

(2) require that a representative of the mortgagee who has authority to decide on loss mitigation options (including loan modification) participate, in person, in scheduled sessions;

(3) require any mortgagee or mortgagor required to participate in the program to make a good faith effort to resolve promptly, through mediation, issues relating to the default on the mortgage;

(4) if mediation is not made available to the mortgagor before a foreclosure proceeding is initiated, allow the mortgagor to request mediation at any time before a foreclosure sale;

(5) provide that any proceeding to foreclose that is initiated by the mortgagee shall be stayed until the mediator has issued a written certification that the mortgagee complied in good faith with its obligations under the mediation program established under this section;

(6) provide for—

(A) supervision by a State court (or a State court in conjunction with an agency or department of a State or local government) of the mediation program;

(B) selection and training of neutral, third-party mediators by a State court (or an agency or department of the State or local government);

(C) penalties to be imposed by a State court, or an agency or department of a State or local government, if a mortgagee fails to comply with an order to participate in mediation; and

(D) consideration by a State court (or an agency or department of a State or local government) of recommendations by a mediator relating to penalties for failure to fulfill the requirements of the mediation program;

(7) require that each mortgagee that participates in the mediation program make available to the mortgagor, before and during participation in the mediation program, documentation of—

(A) a loan modification calculation or net present value calculation, including the information necessary to verify and evaluate the calculation, made by the mortgagee in relation to the mortgage using a home loan modification protocol;

(B) the loan origination, including any note, deed of trust, or other document necessary to establish the right of the mortgagee to foreclose on the mortgage, including proof of assignment of the mortgage to the mortgagee and the right of the mortgagee to enforce the relevant note under the law of the State in which the real property securing the mortgage is located;

(C) any pooling and servicing agreement that the mortgagee believes prohibits a loan modification;

(D) the payment history of the mortgagor and a detailed accounting of any costs or fees associated with the account of the mortgagor; and

(E) the specific alternatives to foreclosure considered by the mortgagee, including loan modifications, workout agreements, and short sales;

(8) prohibit a mortgagee from shifting the costs of participation in the mediation program, including the attorney's fees of the mortgagee, to a mortgagor;

(9) provide that—

(A) any holder of a junior lien against the property that secures a mortgage that is the subject of a mediation—

(i) be notified of the mediation; and

(ii) be permitted to participate in the mediation; and

(B) any proceeding initiated by a holder of a junior lien against the property that secures a mortgage that is the subject of a mediation be stayed pending the mediation;

(10) provide information to mortgagors about housing counselors approved by the Secretary; and

(11) be free of charge to the mortgagor and mortgagee.

(d) RECORDKEEPING.—A State or local government that receives a grant under this section shall keep a record of the outcome of each mediation carried out under the mediation program, including the nature of any loan modification made as a result of participation in the mediation program.

(e) TARGETING.—A State that receives a grant under this section may establish—

(1) a statewide mediation program; or

(2) a mediation program in a specific locality that the State determines has a high need for such program due to—

(A) the number of foreclosures in the locality; or

(B) other characteristics of the locality that contribute to the number of foreclosures in the locality.

(f) FEDERAL SHARE.—The Federal share of the cost of a mediation program established using a grant under this section may not exceed 50 percent.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2011 through 2014.

SEC. 5. OVERSIGHT OF PUBLIC AND PRIVATE EFFORTS TO REDUCE MORTGAGE DEFAULTS AND FORECLOSURES.

(a) DEFINITIONS.—In this section—

(1) the term ''heads of appropriate agencies'' means the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Director of the Bureau of Consumer Financial Protection, the Director of the Office of Financial Research of the Department of the Treasury, and a representative of State banking regulators selected by the Secretary;

(2) the term ''mortgagee'' means—

(A) an original lender under a mortgage;

(B) any servicers, affiliates, agents, subsidiaries, successors, or assignees of an original lender; and

(C) any subsequent purchaser, trustee, or transferee of any mortgage or credit instrument issued by an original lender; and

(3) the term ''servicer'' means any person who collects on a home loan, whether such person is the owner, the holder, the assignee, the nominee for the loan, or the beneficiary of a trust, or any person acting on behalf of such person.

(b) MONITORING OF HOME LOANS.—

(1) IN GENERAL.—The Secretary, in consultation with the heads of appropriate agencies, shall develop and implement a plan to monitor—

(A) conditions and trends in homeownership and the mortgage industry, in order to predict trends in foreclosures to better understand other critical aspects of the mortgage market; and

(B) the effectiveness of public and private efforts to reduce mortgage defaults and foreclosures.

(2) REPORT TO CONGRESS.—Not later than 1 year after the development of the plan under paragraph (1), and each year thereafter, the Secretary shall submit a report to Congress that—

(A) summarizes and describes the findings of the monitoring required under paragraph (1); and

(B) includes recommendations or proposals for legislative or administrative action necessary—

(i) to increase the authority of the heads of appropriate agencies to levy penalties against any mortgagee, or other person or entity, who fails to comply with the requirements described in this section;

(ii) to improve coordination between public and private initiatives to reduce the overall rate of mortgage defaults and foreclosures; and

(iii) to improve coordination between initiatives undertaken by Federal, State, and local governments.

SEC. 6. HOUSING TRUST FUND.

From funds received or to be received by the Secretary of the Treasury from the sale of warrants under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.), the Secretary of the Treasury shall transfer and credit $1,000,000,000 to the Housing Trust Fund established under section 1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4568) for use in accordance with such section.

Mr. WHITEHOUSE. Mr. President, I rise today to speak in support of legislation I have introduced with Senators REED, MERKLEY, SANDERS and TESTER to enhance foreclosure protections for our servicemembers and their families, and to help ensure that their rights under the Servicemembers Civil Relief Act are not violated.

We have all heard horror stories about how servicers treat homeowners in distress. When these abusive mortgage practices harm the men and women who are sent into harm's way to protect our country, it is a particular tragedy and it deserves our urgent attention.

Not only are these practices illegal and morally repugnant, they can also be a dangerous distraction from our military mission. Holly Petraeus, General Petraeus' wife, leads the Consumer Financial Protection Bureau's Office for Service Member Affairs, and she testified on this issue during a recent hearing before the House Veterans' Affairs Committee. As she put it, ''[i]t is a terrible situation for the family at home and for the servicemember abroad who feels helpless.''

Service members over at the point of the spear in Afghanistan have enough to worry about without worrying about the bank foreclosing on their family.

According to recent media reports, it has come to light that financial institutions have repeatedly failed to comply with the Servicemembers Civil Relief Act or ''SCRA''. These violations led to thousands of mortgage overcharges and a number of unlawful foreclosures. Under the SCRA, it is illegal to foreclose on a protected servicemember unless an authorization by a judge is obtained. Then, the judge can only act after a hearing is held in which the military homeowner is represented.

One of the most troubling cases is the story of SGT James B. Hurley, who lost his home while he was serving in Iraq. Like many Reservists, Sergeant Hurley made less money serving on active duty than he did in his civilian job. So, when he was mobilized, it became a real struggle for his family to afford his mortgage and they fell behind in making his payments.

The SCRA was designed to protect our servicemembers from financial challenges associated with deployments, and it should have prevented the bank from foreclosing on Sergeant Hurley. However, the bank violated the SCRA, foreclosing on Sergeant Hurley illegally, and forcing his wife and children out of their home. Sergeant Hurley returned from combat, as a disabled veteran, only to find that the bank had sold the home that he worked so hard to build.

The current economic climate has hit our returning veterans particularly hard, adding to the financial challenges our deployed servicemembers already face. According to a recent Department of Labor report, the unemployment rate for veterans rose to 9.9 percent overall, and 15.2 percent for veterans of the wars in Iraq and Afghanistan.

These heartbreaking statistics underscore how difficult it can be to readjust economically to life at home. For our returning servicemembers that need time to get back on financial solid footing, to rebuild what they had to walk away from to defend the rest of us, we should do everything we can to accommodate their needs, especially during these difficult economic times.

The Protecting Servicemembers from Mortgage Abuses Act of 2011, which I am introducing would encourage compliance with the SCRA by doubling the maximum criminal penalties for violations of its foreclosure and eviction protections. It would also double civil penalties in cases where the Attorney General has commenced a civil action against the lender.

In addition, the bill will give servicemembers the time they need after returning from deployment to regain solid financial footing, by extending the period of foreclosure protection coverage from 9 to 24 months after military service has ended.

I hope Senators on both sides of the aisle will come together and join me in supporting legislation to discourage loan servicers from further violations and help to protect the financial and emotional well-being of our troops.

By Mr. AKAKA.

S. 490. A bill to amend title 38, United States Code, to increase the maximum age for children eligible for medical care under the CHAMPVA program, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, today, many dependent children of veterans who permanently and totally disabled from a service connected disability or who died in the line of duty are no longer being covered by their health insurance program. I am introducing important legislation that would make a critical adjustment to current eligibility requirements for children who receive health care under the Civilian Health and Medical Program of the Department of Veterans Affairs program.

CHAMPVA was established in 1973 within the Veterans Administration to provide health care services to dependents and survivors of our Nation's veterans. CHAMPVA enrollment has grown steadily over the years and, as of fiscal year 2009, covers more than 336,000 beneficiaries.

Under the current law, a dependent child loses eligibility for CHAMPVA upon turning 18-years-old, unless the child is enrolled in school on a full-time basis. After losing full-time status at school, or upon turning 23-years-old, an eligible child of a veteran would lose eligibility.

The landmark health care reform act that was enacted into law last year includes a provision that requires private health insurance to cover dependent children until age 26.

I believe it is only fair to afford children who are CHAMPVA beneficiaries the same eligibility as dependent children whose parents have private sector coverage. Beneficiaries are already being cut off from coverage. We need to take prompt action to extend coverage to the dependents of these veterans who have given so much to our country. I urge my colleagues to support this necessary modification.

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. 490

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

SECTION 1. INCREASE OF MAXIMUM AGE FOR CHILDREN ELIGIBLE FOR MEDICAL CARE UNDER CHAMPVA PROGRAM.

(a) INCREASE.—Subsection (c) of section 1781 of title 38, United States Code, is amended to read as follows:

''(c)(1) Notwithstanding clauses (i) and (iii) of section 101(4)(A) of this title and except as provided in paragraph (2), for purposes of this section, a child who is eligible for benefits under subsection (a) shall remain eligible for benefits under this section until the child's 26th birthday, regardless of the child's marital status.

''(2) Before January 1, 2014, paragraph (1) shall not apply to a child who is eligible to enroll in an eligible employer-sponsored plan (as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986).

''(3) This subsection shall not be construed to limit eligibility for coverage of a child described in section 101(4)(A)(ii) of this title.''.

(b) EFFECTIVE DATE.—Such subsection, as so amended, shall apply with respect to medical care provided on or after the date of the enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 87—DESIGNATING THE YEAR OF 2012 AS THE ''INTERNATIONAL YEAR OF COOPERATIVES''

Mr. JOHNSON of South Dakota (for himself, Mr. COCHRAN, Mr. KOHL, Mr. ENZI, Ms. COLLINS, Mr. FRANKEN, Mr. TESTER, Mr. GRASSLEY, Ms. KLOBUCHAR, Mr. WICKER, Mrs. MCCASKILL, Mr. ROBERTS, Mr. PRYOR, Mr. CONRAD, Mr. BROWN of Ohio, Mr. SCHUMER, Mrs. MURRAY, Mrs. BOXER, Mr. BAUCUS, Ms. STABENOW, Ms. CANTWELL, and Mr. NELSON of Nebraska) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 87

Whereas in the United States, there are more than 29,000 cooperatives with 120,000,000 members;

Whereas cooperatives in the United States generate 2,000,000 jobs and make a substantial contribution to the economy of the United States with annual sales of $652,000,000,000 and assets of $3,000,000,000,000;

Whereas the cooperative business model has empowered people around the world to improve their lives through economic and social progress;

Whereas cooperatives are a major economic force in developed countries and a powerful business model in developing countries, employing approximately 100,000,000 people;

Whereas there are millions of cooperatives, which are owned and governed by more than 1,000,000,000 members, operating in every nation of the world;

Whereas the economic activity of the largest 300 cooperatives in the world is equal to that of the 10th largest national economy;

Whereas United Nations Resolution 64/136, adopted by the General Assembly on December 18, 2009, designates the year 2012 as the ''International Year of Cooperatives'';

Whereas the theme of the International Year of Cooperatives is ''Cooperative Enterprise Builds a Better World''; and

Whereas cooperatives are the businesses of the people, and for more than a century, have been a vital part of the world economy: Now, therefore, be it

Resolved, That the Senate—

(1) designates the year 2012 as the ''International Year of Cooperatives'';

(2) congratulates cooperatives and members of cooperatives in the United States and around the world on the recognition of the United Nations of 2012 as the ''International Year of Cooperatives'';

(3) recognizes the vital role cooperatives play in the economic and social well-being of the United States;

(4) urges the establishment of a National Committee for the 2012 International Year of Cooperatives to be comprised of representatives from each Federal agency, all cooperative sectors, and key stakeholders;

(5) recognizes the importance of raising the profile of cooperatives and demonstrating the manner by which cooperatives build local wealth, generate employment, and provide competition in the marketplace; and

(6) encourages highlighting the positive impact of cooperatives and developing new programs for domestic and international cooperative development.

Mr. JOHNSON of South Dakota. Mr. President, today I submitted a resolution with my friend, Senator THAD COCHRAN of Mississippi, to recognize and celebrate the importance of cooperatives to our economy, and our rural communities in particular. In 2009, the United Nations General Assembly officially declared 2012 as ''The International Year of Cooperatives'' through a resolution calling on governments to recognize the important role cooperatives play in providing economic opportunity for millions of people in the United States and throughout the world. Our resolution highlights the impact of cooperatives and encourages the development of programs, both here and abroad, for cooperative development.

The Capper-Volstead Act of 1922 was the first legal protection for the cooperative business model in which a business is democratically controlled and owned by its members and operates for the mutual benefit of its members. The membership of a cooperative is comprised of the individuals who use the business' services or buy its goods. The Capper-Volstead Act was originally enacted with the purpose of legally empowering farmers to pool their marketing resources and to improve farmers' bargaining power with the buyers of their products. The cooperative business model has since expanded to other areas of the economy, and has contributed significantly to economic growth in rural communities.

A recent study from the University of Wisconsin Center for Cooperatives found that today, 29,000 U.S. cooperatives operate at 73,000 places of business throughout the country. They have a significant impact on the economy, employing around 2 million people and generating more than $650 billion in revenue annually. Additionally, the member-owned and controlled nature of cooperatives, particularly in rural States like South Dakota, helps to ensure that economic activity remains in the community. Having a membership stake in a local business tends to make one more likely to buy goods or services from that business, thereby contributing to local economic development. Research has even shown that when consumers find out a business is organized as a cooperative, they are more likely to do business with that entity.

Overall, Americans hold 350 million memberships in cooperatives. A majority of our Nation's farmers are members of nearly 3,000 farmer-owned cooperatives, which provide more than 250 thousand jobs in our economy. There are more than 900 rural electric cooperatives servicing 42 million people in almost every State, and over 91 million people bank at more than 7,500 credit unions throughout the country. In South Dakota alone, 81 farm supply and marketing cooperatives claim 65,000 memberships, generating $5.3 billion in annual revenue. The 50 credit unions located in my home State hold 24,600 memberships and generate $2.2 billion in assets. Additionally, there are 125,000 members of the 30 electric cooperatives and 49,000 members of 11 telephone cooperatives throughout the State. Cooperatives clearly take many different forms in our communities, providing jobs and opportunities for rural residents, and in the case of agriculture, provide new markets for the products they produce.

My resolution will officially include the United States in recognizing 2012 as the International Year of Cooperatives,