DEWINE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 2563, a bill to require imported explosives to be marked in the same manner as domestically manufactured explosives.

S. 2575

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2575, a bill to direct the Secretary of Agriculture to conduct research, monitoring, management, treatment, and outreach activities relating to sudden oak death syndrome and to convene regular meetings of, or conduct regular consultations with, Federal, State, tribal, and local government officials to provide recommendations on how to carry out those activities.

S. 2603

At the request of Mr. SMITH, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2603, a bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

S. 2609

At the request of Mr. KOHL, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2609, a bill to amend the Farm Security and Rural Investment Act of 2002 to extend and improve national dairy market loss payments.

S. 2628

At the request of Mr. AKAKA, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2628, a bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

S. 2634

At the request of Mr. SMITH, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2634, an act to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, to provide funds for campus mental and behavioral health service centers, and for other purposes.

S.J. RES. 41

At the request of Mr. CAMPBELL, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S.J. Res. 41, a joint resolution commemorating the opening of the National Museum of the American Indian.

S. CON. RES. 90

At the request of Mr. LEVIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. CON. RES. 106

At the request of Mr. CAMPBELL, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Oregon (Mr. SMITH) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. Con. Res. 106, a concurrent resolution urging the Government of Ukraine to ensure a democratic, transparent, and fair election process for the presidential election on October 31, 2004.

S. CON. RES. 110

At the request of Mr. CAMPBELL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Con. Res. 110, a concurrent resolution expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe (OSCE) in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence.

S. CON. RES. 119

At the request of Mr. CAMPBELL, the names of the Senator from Oklahoma (Mr. NICKLES), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Florida (Mr. GRAHAM), the Senator from Illinois (Mr. FITZGERALD), the Senator from Idaho (Mr. CRAPO), the Senator from California (Mrs. FEINSTEIN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. Con. Res. 119, a concurrent resolution recognizing that prevention of suicide is a compelling national priority.

S. CON. RES. 124

At the request of Mr. CORZINE, the names of the Senator from Illinois (Mr. DURBIN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Iowa (Mr. HARKIN) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. Con. Res. 124, a concurrent resolution declaring genocide in Darfur, Sudan.

At the request of Mr. BROWNBACK, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Con. Res. 124, supra.

S. RES. 389

At the request of Mr. CAMPBELL, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. Res. 389, a resolution expressing the sense of the Senate with respect to prostate cancer information.

S. RES. 401

At the request of Mr. BIDEN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. Res. 401, a resolution designating the week of November 7 through November 13, 2004, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 403

At the request of Mr. BAYH, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Washington (Ms. CANTWELL) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. Res. 403, a resolution encouraging increased involvement in service activities to assist senior citizens.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Mr. DAYTON, and Mr. LEVIN):

S. 2652. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program; read the first time.

Mr. DURBIN. Mr. President, those who are following the business of the Senate understand that just a few moments ago, we had a vote on the floor of the Senate on the proposed constitutional amendment dealing with same-sex marriage. The final vote, I think, was indicative of the feeling of this body. There were 48 who supported going forward with the debate on this amendment and 50 Senators who opposed it. Of course, 48 Senators does not meet the threshold requirement for approving a constitutional amendment, which is 67 Senators. So that gap of 19 Senators suggests this Senate does not believe it is appropriate for us to move forward on that type of constitutional amendment.

Many of the colleagues on both sides of the aisle spoke to this issue over the last several days and expressed their heartfelt feelings of the underlying issue of same-sex marriage and about the question of whether we should amend the Constitution. The vote today is, I think, a good indication that this is an issue whose time has not come. There is no issue in controversy which requires us to amend the Constitution of the United States of America.

One might ask, if this issue fell so far short, 19 votes short, of what it needed, why did we consider it? For obvious reasons. This debate was not about changing the Constitution. This debate was about changing the subject in the Presidential campaign.

It is understood that if you ask most American families what is important to them the politicians are worried about, they will talk about the obvious things: My job, the fact that my paycheck does not cover the necessities of my family, the cost of health insurance, the availability of quality health care, whether my retirement savings are going to be protected; I am concerned as well about the situation in Iraq; I would like to know when we will stop losing our soldiers, and what do we have ahead of us in terms of Iraq and the $1.5 billion which American

taxpayers spend each week in Iraq, how long will that go on? What could we do with $1.5 billion every week in the United States of America for our schools, for providing health care for our children, immunizations.

These are the obvious questions with which most families identify. But if the Presidential election campaign is waged on those issues, the White House and the Republican Party believe they are at a disadvantage because many people, in fact, an amazingly large percentage of Americans, say when asked, they feel our country is going in the wrong direction in terms of its economics to help working families, in terms of creating jobs, keeping good-paying jobs in America, dealing with the fact we still continue to be dependent on the Middle East and Saudi Arabia for our oil which draws us into a terrible situation of dependency, a terrible situation which taxes our resources.

That is what most Americans will identify as the major issues, and those are not issues on which this administration wants to campaign. So they attempted today to change the subject. They wanted to change the subject by changing the Constitution to deal with same-sex marriages, an issue which has not reached a level where it should even be addressed by our Constitution.

I will not go over that whole debate again, but the vote tells the story. The Republican Party in the majority in the Senate was unable to get a majority of votes to support the President's constitutional amendment. The rollcall tells the story. But there are other issues which, frankly, we should now move to, issues about which families across America do care.

I know as I travel around my State of Illinois and talk with families, businesses, labor union leaders, time and again the issue on their minds is the cost of health care in America.

I met 2 days ago in Chicago with a good friend of mine who heads up one of the major labor unions. It is a labor union which represents people who work at grocery stores, United Food and Commercial Workers. I talked with him about his problems.

He said: Senator, virtually every strike we have, virtually every contract negotiation is over the cost of health insurance. We get our workers 50 cents more an hour, and they don't see a penny of it. It all goes into health insurance, and there is less coverage this year than last year. They are upset with their labor leaders and upset with their employers.

Then you talk with businesspeople, businesses small and large, and I hear the same story, businesses which say: We are mom and pop, and we can no longer afford health insurance for the people who work for us; it is just too expensive.

There is another element in this whole equation which we cannot overlook, and that is the cost of prescription drugs. The cost of prescription drugs is not only driving the cost of health insurance to record levels, but it is also pushing a lot of people of limited family means into terrible choices: whether they can afford to buy the prescription drugs that will keep them healthy and, if they do, whether they will have to sacrifice the necessities of life. That is a real issue. That is an issue this campaign ought to be about. Would it not be refreshing if the debate of the week was not over same-sex marriage and its impact on families but the cost of health care and the cost of prescription drugs and their impact on families? I think that is what the voters are waiting for.

If they have any frustration with those of us in public office, it is the fact we talk past them, over them, and around them and never direct to the issues about which they care.

Today I am joining Senator LEVIN of Michigan and Senator DAYTON of Minnesota in introducing S. 2652.

We are going to work to put this bill on the Senate calendar under rule XIV so that Senator FRIST can call it up for debate. In other words, what I am trying to do is to accelerate consideration of this bill to blow past all the political issues and the political rhetoric to get into this legislation. The Democratic leader in the other body is working to discharge a companion bill so they can consider it in an expedited manner.

This bill is called the Medicare Prescription Drug Savings Act. We need to expedite this bill. We need to put it on the calendar. We need to stop wasting time on issues going nowhere because seniors and low-income individuals are facing escalating prescription drug prices that are really hurting them personally and diminishing their Medicare drug benefits. Instead of considering bills that do not have the votes to pass, like the one we just finished, we should consider something that is an urgent priority for Americans. Whether one lives in a blue State, a red State, or a purple State, whether one is in a battleground State or it is a State that is decided, they are going to find seniors concerned about the cost of prescription drugs. This is an issue that is bipartisan. It is an issue that affects virtually every family. Over the past 5 years, prescription drug prices have risen between 14 and 19 percent every single year, 5 times the rate of inflation.

One particularly egregious example of drug price inflation in the United States is Novir, an essential ingredient in the HIV cocktail to deal with the HIV/AIDS crisis. The price of an average dose of Novir went up 400 percent this year from $1,600 a year to more than $7,800. That is more than 10 times the cost of the same drug in Canada or in Europe. Americans are paying 10 times the cost of Novir for HIV patients in the United States as the price that is being paid in Canada and Europe.

Last month, the AARP released a study examining prescription drug prices for the 12-month period ending in March 2004. The study revealed that the prices charged by pharmaceutical companies to wholesalers for the top brand-name drugs used by seniors increased at a rate of 7.2 percent. That is faster than the 2 previous years, which is troubling given that inflation actually fell during that same period of time.

Drug discount cards have been suggested as the answer for this problem, but they are not. A fact sheet sent out by the Department of Health and Human Services to 40 million Medicare beneficiaries said that a discount card with Medicare's seal of approval can help save 10 to 25 percent on prescription drugs.

Now, this is the administration plan, a discount card under Medicare for prescription drugs that could save 10 to 25 percent. Well, after the same Department published the drug card prices in May, the Chicago Tribune newspaper looked at what these cards would mean in a suburb of Chicago, the city of Evanston. The Tribune compared the prices at pharmacies in Evanston with what seniors will save with drug discount cards. Take a look at it.

In some cases, the people in Evanston, IL, will actually save less without the card. The drug Lipitor, with the discount card, is $67.07. The lowest retail price, $68.99. Savings, $1.92, or 3-percent savings. Celebrex, 2 percent. Norvasc, in fact, costs more under the discounted card. So this so-called discount card seems to be of little value with drugs that are very popular and well used and prescribed to, such as Lipitor, Celebrex, and Norvasc.

The lack of significant savings from the discount cards that are being touted by the administration is not unique to Illinois or the city of Evanston. Since President Bush announced the idea of a drug discount card in July of 2001, top selling prescription drugs have experienced double-digit increases, eroding any savings that might come from the card.

Remember when the Bush administration said their discount cards would save seniors 10 to 25 percent? Well, price increases are eroding savings. Take a look at what happened to these drugs: Celebrex for arthritis pain went up 23 percent; Coumadin, a blood thinner, 22 percent; Lipitor, 19 percent; Zoloft, 19 percent; Zyprexa, 16 percent; Prevacid, 15 percent; and Zocor, 15 percent.

The prescription drug discount card is not even really keeping up with the inflation built into prescription drug prices.

Some of my colleagues may say it is not important that the drug card is not producing much savings because the real benefit will start in January of 2006. Unfortunately, rising drug prices will erode that benefit, too.

I will tell my colleagues about one of my constituents. Alois Kessler of Skokie, IL, has $3,200 in drug costs, and his income, which is fixed, is $28,500. Assuming prescription drug prices continue to rise as we have seen them rise

and Mr. Kessler stays with the same medication he is currently taking, his drug costs will be approximately $4,800 by 2006, the first year of the new Part D benefit. His income will rise about 3 percent a year. So he will have drug prices at $4,800 and an income of $31,000 a year.

The new program reduces his cost by $1,080 in the first year, so he will still have to pay out-of-pocket $2,120. By 2015, assuming he is still taking the same medication, his drug costs will reach $17,000, and his income will only have risen to around $40,400. One just cannot keep up with an inflation protection in their Medicare or retirement income against drug price increases of this kind.

What can we do about it? What we can do about it is something this bill proposes, and it is something very basic. There is a lot of talk in Congress today about bringing drugs in from Canada and other places. I am open to that conversation, anything to provide relief to seniors and people on limited incomes trying to buy lifesaving drugs.

Look to the north. Canada selling American drugs made in America, inspected in America, approved in America, with research in America, for sale in Canada turn out to be a fraction of the cost of what they are in the United States. With just 2 percent of the worldwide pharmaceutical market, Canada cannot supply the United States no matter how many busloads of seniors we send there.

The United States has 53 percent of the worldwide prescription drug market. Half of it is made up of Medicare beneficiaries. Think about this for a moment. If Medicare, the program that covers seniors, were to sit down with major pharmaceutical companies and bargain for the prices of the drugs, think about their bargaining power. They have the ability to bring prices down for Americans for drugs sold in America rather than reimported in the United States.

The prescription drug benefit bill we passed expressly prohibits Medicare from negotiating for lower prices. That is something the pharmaceutical companies wanted, and they won. They won it at the expense of American consumers.

Today, the Veterans' Administration and the Department of Defense negotiate for VA drug prices and cut down the cost of drugs by almost 50 percent. Take a look at some of these popular drugs and the difference between what is paid in the drugstores of America and what the Federal Government pays for the same drug: Xalatan eyedrops, $41 under the negotiated price of the VA, and $101 is what is paid in the drugstore; Celebrex, the drug we talked about earlier for arthritis, $108 on the Federal Supply Schedule and $173 at the drugstore; Lipitor for cholesterol, $215 in the Federal system, $446 over the counter; Plavix, $257 negotiated, and over-the-counter, $593.

Once you put the bargaining power of the Federal Government behind price negotiations, the prices come down. People can afford the drugs. Families can afford them. The cost of health insurance comes down, but the profits for the drug companies come down, too. That is why this Congress, under the thrall of that special interest group, has refused to give Medicare the power to negotiate.

I will give one specific example we have lived through on Capitol Hill. Many people rail about what happened with the anthrax scare a few years ago. There was a suggestion that the drug Cipro would be used as an antidote to any ill-effects caused by anthrax. We found out Cipro was an expensive drug, and Secretary Tommy Thompson said he would negotiate with the Bayer Company, the company that makes Cipro, to lower prices.

Look what happened when Secretary Thompson tried to do that. He said:

> Everyone said I wouldn't be able to reduce the price of Cipro. I am a tough negotiator.

What was the market price when he went into it? It was $4.67 per pill for Cipro. When it was all said and done, we were paying 75 cents. When someone sits down with the drug companies and says, You are overcharging us, we won't pay it, look what happens. Yet when the seniors of America look for the same kind of hard-nosed negotiating to bring down costs for them, this Congress says no; we don't want to give Medicare the ability to negotiate to do the same thing Secretary Thompson achieved when it came to these Cipro tablets. Through negotiation, Secretary Thompson brought down the price of Cipro by 490 percent. Good news for the people who needed Cipro; bad news for the people who need Medicare. But we can't even ask him to stand up for senior citizens in America. Out of the question. Drug companies don't want to lose their profitability.

Incidentally, they are very profitable. Let me show you some charts. This indicates the profitability of Fortune 500 drug companies versus the profits for all Fortune 500 companies in the year 2002. Look at what drug companies on the red bars have done on profitability: 17 percent as opposed to 3.1 percent; in this chart, 27.6 percent to 10.2 percent. They are making money hand over fist. They are charging seniors and families across America record high prices for drugs. They are increasing the cost of those drugs every single year and passing them along directly, raising health insurance costs, making it more difficult for seniors to keep up with the drugs they need to stay healthy.

I think the bill I have introduced with Senators LEVIN and DAYTON answers the need. I believe the bill which we will attempt to put on the Senate calendar today, so we can vote it before we leave for anybody's convention, is going to go a long way toward helping America's seniors. The Medicare Prescription Drug Savings Act instructs the Secretary of Health and Human Services to offer a nationwide Medicare-delivered prescription drug benefit in addition to the PDP and PPO plans available in the 10 regions. We keep in place what is in the Medicare bill passed last year, we just add a new player. The new player is Medicare providing prescription drugs with negotiated prices. We set a uniform national premium of $35 for the first year for this prescription drug benefit, and we negotiate group purchasing agreements on behalf of beneficiaries who choose to receive their drugs through the Medicare-administered benefit. It is voluntary. Those who choose to receive their drugs will have negotiated lower prices. Those who enroll can stay enrolled as long as they want.

Not only will this bill provide seniors with lower cost drugs, it will give them a choice to enroll in a Medicare-delivered plan, cutting down on the confusion the privately delivered system has already created. Critics and the pharmaceutical industry would say my bill is about price controls and big government. How do you explain the Veterans' Administration? Aren't we saying for our veterans we want to bring down the cost of pharmaceutical drugs? Have you spoken to a veteran lately who has gone to the VA hospital to sign up for the monthly drug benefit because it is so attractive for him and his family? That tells me government can play an important role and have a voice in buying in bulk and bringing down costs.

Who supports this bill we are trying to bring to the calendar? The Alliance for Retired Americans, AFL–CIO, American Nurses Association, Campaign for America's Future, USAction, Consumers Union, the Service Employees International Union, AFSCME, the American Federation of Teachers, Families USA, the Center for Medicare Advocacy, and the National Committee to Preserve Social Security and Medicare.

If you don't think this is a timely issue, pick up this morning's New York Times and take a look at the front-page story. The bill we passed, signed by President Bush, has America running in the wrong direction. Front-page headline:

> Drug Law [signed by President Bush] Is Seen Leading To Cuts in Retiree Plans.

Let me read one or two paragraphs:

> New government estimates suggest that employers will reduce or eliminate prescription drug benefits for 3.8 million retirees when Medicare offers its coverage in 2006.

That is the plan we referred to earlier passed by Congress.

> That represents one-third of all retirees with employer-sponsored drug coverage, according to documents from the Department of Health and Human Services.
>
> No aspect of the new law causes more concern among retirees than the possibility they might lose benefits they already have.

That is what the administration offers us: discount cards which don't offer a real discount, the loss of prescription drug coverage already available for 3.8 million retirees, and, finally, a plan that is offered to seniors

that is almost impossible to describe and follow because it is so complicated in its minutiae and detail, and it does not include a provision that allows Medicare to bargain for the best prices, the same bargaining power which we use over and over again to help veterans and many other Americans.

Before the end of the day, we are going to ask that this bill be brought to the calendar. I don't know what else we will consider today, but if my colleagues in the Senate will go home and ask a random sample of anybody on the street corner, or in the shopping center, about the cost of prescription drugs and what it means, they will understand that whatever the next item of business might be in the Senate, it cannot really match in importance what this issue means to families across the United States of America.

I yield the floor.

Mr. BIDEN (for himself, Mr. SPECTER, Mrs. FEINSTEIN, Mr. KYL, Mr. HOLLINGS, and Mr. ALLEN):

S. 2653. A bill to make it a criminal act to willfully use a weapon with the intent to cause death or serious bodily injury to any person while on board a passenger vessel, and for other purposes; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise today to introduce the Reducing Crime and Terrorism at America's Seaports Act, along with Senators SPECTER, FEINSTEIN, KYL, HOLLINGS, and ALLEN. Today's bill is a revised version of legislation Senator SPECTER and I introduced last year, S. 1587. The bill benefits from the expertise of the Chairman and Ranking Member of the Judiciary Subcommittee on Terrorism, Senators KYL and FEINSTEIN. My colleagues have their own bill on this subject, S. 746, and I am grateful that they are original cosponsors of today's measure. The Ranking Member of the Commerce Committee, my good friend Senator HOLLINGS, has also been a leader in this area and today's bill incorporates suggestions made by him and his able staff. Senator SPECTER and I have worked long and hard on this issue, and it is my sincere hope and expectation that the bill we introduce today is a consensus measure that will swiftly pass the Senate this year.

Today, almost three years after the devastating attacks of September 11, our Nation's transportation infrastructure remains vulnerable to terrorist activity. American ports are critical to the nation's commercial well-being, and we must do all that we can to ensure that our laws keep pace with the threats that they face.

Recently, Homeland Security Secretary Ridge traveled to the Port of Los Angeles/Long Beach to announce that the Untied States was in full compliance with the International Ship and Port Facility Security Code, and that his department was working to meet the requirements of the Maritime Transportation Security Act. I welcome those announcements, but there is more we should be doing to protect our ports and close existing gaps in our criminal code. The bill Senator SPECTER and I introduce today starts to close those gaps.

Our bill will double the maximum term of imprisonment for anyone who fraudulently gains access to a seaport or waterfront. The Interagency Commission on Crime and Security at U.S. Seaports concluded that ''control of access to the seaport or sensitive areas within the seaports'' poses one of the greatest potential threats to port security. Such unauthorized access continues and exposes the nation's seaports, and the communities that surround them, to acts of terrorism, sabotage or theft. Our bill will help deter those who seek unauthorized access to our ports by imposing stiffer penalties.

Our bill would also increase penalties for noncompliance with certain manifest reporting and record-keeping requirements, including information regarding the content of cargo containers and the country from which the shipments originated. An estimated 95 percent of the cargo shipped to the U.S. from foreign countries, other than Canada and Mexico, arrives throughout seaports. Accordingly, the Interagency Commission found that this enormous flow of goods through U.S. ports provides a tempting target for terrorists and others to smuggle illicit cargo into the country, while also making ''our ports potential targets for terrorist attacks.'' In addition, the smuggling of non-dangerous, but illicit, cargo may be used to finance terrorism. Despite the gravity of the threat, we continue to operate in an environment in which terrorists and criminals can evade detection by underreporting and misreporting the content of cargo. Increased penalties can help here.

The legislation we introduce today would also make it a crime for a vessel operator to fail to slow or stop a ship once ordered to do so by a federal law enforcement officer; for any person on board a vessel to impede boarding or other law enforcement action authorized by federal law; or for any person on board a vessel to provide false information to a federal law enforcement officer. The Coast Guard is the main federal agency responsible for law enforcement at sea. Yet, its ability to force a vessel to stop or be boarded is limited. While the Coast Guard has the authority to use whatever force is reasonably necessary, a vessel operator's refusal to stop is not currently a crime. This bill would create that offense.

In addition, the Coast Guard maintains over 50,000 navigational aids on more than 25,000 miles of waterways. These aids, which are relied upon by all commercial, military and recreational mariners, are critical for safe navigation by commercial and military vessels. They could be inviting targets for terrorists. Our legislation would make it a crime to endanger the safe navigation of a ship by damaging any maritime navigational aid maintained by the Coast Guard; place in the waters anything which is likely to damage a vessel or its cargo, interfere with a vessel's safe navigation, or interfere with maritime commerce; or dump a hazardous substance into U.S. waters, with the intent to endanger human life or welfare.

Each year, thousands of ships enter and leave the U.S. through seaports. Smugglers and terrorists exploit this massive flow of maritime traffic to transport dangerous materials and dangerous people into this country. This legislation would make it a crime to use a vessel to smuggle into the United States either a terrorist or any explosive or other dangerous material for use in committing a terrorist act. The bill would also make it a crime to damage or destroy any part of a ship, a maritime facility, or anything used to load or unload cargo and passengers; commit a violent assault on anyone at a maritime facility; or knowingly communicate a hoax in a way which endangers the safety of a vessel. In addition, the Interagency Commission concluded that existing laws are not stiff enough to stop certain crimes, including cargo theft, at seaports. Our legislation would increase the maximum term of imprisonment for low-level thefts of interstate or foreign shipments from 1 year to 3 years and expand the statute to outlaw theft of goods from trailers, cargo containers, warehouses, and similar venues.

I thank my colleagues for their support of this measure, and I look forward to its prompt consideration by the full Senate.

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

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

S. 2653

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

SECTION 1. SHORT TITLE.

This title may be cited as the ''Reducing Crime and Terrorism at America's Seaports Act of 2004''.

SEC. 2. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.

(a) IN GENERAL.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''or'' at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) any secure or restricted area (as that term is defined under section 2285(c)) of any seaport; or'';

(2) in subsection (b)(1), by striking ''5'' and inserting ''10'';

(3) in subsection (c)(1), by inserting '', captain of the seaport,'' after ''airport authority''; and

(4) in the section heading, by inserting ''or seaport'' after ''airport''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of

title 18 is amended by striking the matter relating to section 1036 and inserting the following:

''1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.''.

(c) DEFINITION OF SEAPORT.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

''§ 25. Definition of seaport.

''As used in this title, the term 'seaport' means all piers, wharves, docks, and similar structures to which a vessel may be secured, areas of land, water, or land and water under and in immediate proximity to such structures, and buildings on or contiguous to such structures, and the equipment and materials on such structures or in such buildings.''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 18 is amended by inserting after the matter relating to section 24 the following:

''25. Definition of seaport.''.

SEC. 3. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

''§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.

''(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

''(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

''(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law, or to resist a lawful arrest; or

''(B) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows is false.

''(b) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Undersecretary for Border and Transportation Security of the Department of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

''(c) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

''(d) In this section—

''(1) the term 'Federal law enforcement officer' has the meaning given the term in section 115(c);

''(2) the term 'heave to' means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

''(3) the term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)); and

''(4) the term 'vessel of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)).

''(e) Any person who intentionally violates the provisions of this section shall be fined under this title, imprisoned for not more than 5 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

''2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.''.

SEC. 4. USE OF A DANGEROUS WEAPON OR EXPLOSIVE ON A PASSENGER VESSEL.

Section 1993 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting '', passenger vessel,'' after ''transportation vehicle'';

(B) in paragraphs (2)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider'' each place that term appears;

(C) in paragraph (3)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle'' each place that term appears; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider'' each place that term appears;

(D) in paragraph (5)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider''; and

(E) in paragraph (6), by inserting ''or owner of a passenger vessel'' after ''transportation provider'' each place that term appears;

(2) in subsection (b)(1), by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(3) in subsection (c)—

(A) by redesignating paragraph (6) through (8) as paragraphs (7) through (9); and

(B) by inserting after paragraph (5) the following:

''(6) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.''.

SEC. 5. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES, AND MALICIOUS DUMPING.

(a) VIOLENCE AGAINST MARITIME NAVIGATION.—Section 2280(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (H), by striking ''(G)'' and inserting ''(H)'';

(B) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (G), (H), and (I), respectively; and

(C) by inserting after subparagraph (E) the following:

''(F) destroys, seriously damages, alters, moves, or tampers with any aid to maritime navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship;''; and

(2) in paragraph (2) by striking ''(C) or (E)'' and inserting ''(C), (E), or (F)''.

(b) PLACEMENT OF DESTRUCTIVE DEVICES.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding after section 2280 the following:

''§ 2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce

''(a) A person who knowingly places, or causes to be placed, in navigable waters of the United States, by any means, a device or substance which is likely to destroy or cause damage to a vessel or its cargo, or cause interference with the safe navigation of vessels, or interference with maritime commerce, such as by damaging or destroying marine terminals, facilities, and any other marine structure or entity used in maritime commerce, with the intent of causing such destruction or damage, or interference with the safe navigation of vessels or with maritime commerce, shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited under this subsection, may be punished by death.

''(b) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding after the item related to section 2280 the following:

''2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.''.

(c) MALICIOUS DUMPING.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

''§ 2282. Knowing discharge or release

''(a) ENDANGERMENT OF HUMAN LIFE.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjoining shoreline with the intent to endanger human life, health, or welfare shall be fined under this title and imprisoned for any term of years or for life.

''(b) ENDANGERMENT OF MARINE ENVIRONMENT.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjacent shoreline with the intent to endanger the marine environment shall be fined under this title, imprisoned not more than 30 years, or both.

''(c) DEFINITIONS.—In this section:

''(1) DISCHARGE.—The term 'discharge' means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

''(2) HAZARDOUS MATERIAL.—The term 'hazardous material' has the meaning given the term in section 2101(14) of title 46, United States Code.

''(3) MARINE ENVIRONMENT.—The term 'marine environment' has the meaning given the term in section 2101(15) of title 46, United States Code.

''(4) NAVIGABLE WATERS.—The term 'navigable waters' has the meaning given the term in section 1362(7) of title 33, and also includes the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.

''(5) NOXIOUS LIQUID SUBSTANCE.—The term 'noxious liquid substance' has the meaning

given the term in the MARPOL Protocol defined in section 2(1) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding at the end the following:

''2282. Knowing discharge or release.''.

SEC. 6. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by section 5 of this Act, is amended by adding at the end the following:

''§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials.

''(a) IN GENERAL.—Any person who knowingly and willfully transports aboard any vessel within the United States, on the high seas, or having United States nationality, an explosive or incendiary device, biological agent, chemical weapon, or radioactive or nuclear material, knowing that any such item is intended to be used to commit an offense listed under section 2332b(g)(5)(B), shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited by this subsection, may be punished by death.

''(b) DEFINITIONS.—In this section:

''(1) BIOLOGICAL AGENT.—The term 'biological agent' means any biological agent, toxin, or vector (as those terms are defined in section 178).

''(2) BY-PRODUCT MATERIAL.—The term 'by-product material' has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

''(3) CHEMICAL WEAPON.—The term 'chemical weapon' has the meaning given that term in section 229F.

''(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term 'explosive or incendiary device' has the meaning given the term in section 232(5).

''(5) NUCLEAR MATERIAL.—The term 'nuclear material' has the meaning given that term in section 831(f)(1).

''(6) RADIOACTIVE MATERIAL.—The term 'radioactive material' means—

''(A) source material and special nuclear material, but does not include natural or depleted uranium;

''(B) nuclear by-product material;

''(C) material made radioactive by bombardment in an accelerator; or

''(D) all refined isotopes of radium.

''(8) SOURCE MATERIAL.—The term 'source material' has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

''(9) SPECIAL NUCLEAR MATERIAL.—The term 'special nuclear material' has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

''§ 2284. Transportation of terrorists.

''(a) IN GENERAL.—Any person who knowingly and willfully transports any terrorist aboard any vessel within the United States, on the high seas, or having United States nationality, knowing that the transported person is a terrorist, shall be fined under this title, imprisoned for any term of years or for life, or both.

''(b) DEFINED TERM.—In this section, the term 'terrorist' means any person who intends to commit, or is avoiding apprehension after having committed, an offense listed under section 2332b(g)(5)(B).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

''2283. Transportation of explosive, chemical, biological, or radioactive or nuclear materials.

''2284. Transportation of terrorists.''.

SEC. 7. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 111 the following:

''CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES

''Sec.

''2290. Jurisdiction and scope.

''2291. Destruction of vessel or maritime facility.

''2292. Imparting or conveying false information.

''2293. Bar to prosecution.

''§2290. Jurisdiction and scope

''(a) JURISDICTION.—There is jurisdiction over an offense under this chapter if the prohibited activity takes place—

''(1) within the United States or within waters subject to the jurisdiction of the United States; or

''(2) outside United States and—

''(A) an offender or a victim is a national of the United States (as that term is defined under section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(B) the activity involves a vessel in which a national of the United States was on board; or

''(C) the activity involves a vessel of the United States (as that term is defined under section 2(c) of the Maritime Drug Law Enforcement Act (42 App. U.S.C. 1903(c)).

''(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

''§ 2291. Destruction of vessel or maritime facility

''(a) OFFENSE.—Whoever willfully—

''(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

''(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), or destructive substance, as defined in section 13, in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

''(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any maritime facility, including but not limited to, any aid to navigation, lock, canal, or vessel traffic service facility or equipment, or interferes by force or violence with the operation of such facility, if such action is likely to endanger the safety of any vessel in navigation;

''(4) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

''(5) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

''(6) performs an act of violence against a person that causes or is likely to cause serious bodily injury, as defined in section 1365, in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

''(7) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

''(8) attempts or conspires to do anything prohibited under paragraphs (1) through (7):

shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) LIMITATION.—Subsection (a) shall not apply to any person that is engaging in otherwise lawful activity, such as normal repair and salvage activities, and the lawful transportation of hazardous materials.

''(c) PENALTY.—Whoever is fined or imprisoned under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be fined under title 18, imprisoned for a term up to life, or both.

''(d) PENALTY WHEN DEATH RESULTS.—Whoever is convicted of any crime prohibited by subsection (a), which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

''(e) THREATS.—Whoever willfully imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry the threat into execution, shall be fined under this title, imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

''§ 2292. Imparting or conveying false information

''(a) IN GENERAL.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

''(b) MALICIOUS CONDUCT.—Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be fined under this title, imprisoned not more than 5 years, or both.

''(c) JURISDICTION.—

''(1) IN GENERAL.—Except as provided under paragraph (2), section 2290(a) shall not apply to any offense under this section.

''(2) JURISDICTION.—Jurisdiction over an offense under this section shall be determined in accordance with the provisions applicable to the crime prohibited by this chapter, or by chapter 2, 97, or 111 of this title, to which the imparted or conveyed false information relates, as applicable.

''§ 2293. Bar to prosecution

''(a) IN GENERAL.—It is a bar to prosecution under this chapter if—

''(1) the conduct in question occurred within the United States in relation to a labor dispute, and such conduct is prohibited as a

felony under the law of the State in which it was committed; or

''(2) such conduct is prohibited as a misdemeanor under the law of the State in which it was committed.

''(b) DEFINITIONS.—In this section:

''(1) LABOR DISPUTE.—The term ''labor dispute'' has the same meaning given that term in section 113(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).

''(2) STATE.—The term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

''111A. Destruction of, or interference with, vessels or maritime facilities ..... 2290''.

SEC. 8. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.

(a) THEFT OF INTERSTATE OR FOREIGN SHIPMENTS.—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''trailer,'' after ''motortruck,'';

(B) by inserting ''air cargo container,'' after ''aircraft,''; and

(C) by inserting '', or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility,'' after ''air navigation facility'';

(2) in the fifth undesignated paragraph, by striking ''one year'' and inserting ''3 years''; and

(3) by inserting after the first sentence in the eighth undesignated paragraph the following: ''For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transhipment or otherwise.''.

(b) STOLEN VESSELS.—

(1) IN GENERAL.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

'''Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.''.

(2) TRANSPORTATION AND SALE OF STOLEN VESSELS.—Sections 2312 and 2313 of title 18, United States Code, are each amended by striking ''motor vehicle or aircraft'' and inserting ''motor vehicle, vessel, or aircraft''.

(c) REVIEW OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 or 2311 of title 18, United States Code, as amended by this Act.

(d) ANNUAL REPORT OF LAW ENFORCEMENT ACTIVITIES.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this Act.

(e) REPORTING OF CARGO THEFT.—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by no later than December 31, 2005.

SEC. 9. INCREASED PENALTIES FOR NONCOMPLIANCE WITH MANIFEST REQUIREMENTS.

(a) REPORTING, ENTRY, CLEARANCE REQUIREMENTS.—Section 436(b) of the Tariff Act of 1930 (19 U.S.C. 1436(b)) is amended by—

(1) striking ''or aircraft pilot'' and inserting '', aircraft pilot, operator, owner of such vessel, vehicle or aircraft or any other responsible party (including non-vessel operating common carriers)'';

(2) striking ''$5,000'' and inserting ''$10,000''; and

(3) striking ''$10,000'' and inserting ''$25,000''.

(b) CRIMINAL PENALTY.—Section 436(c) of the Tariff Act of 1930 (19 U.S.C. 1436(c)) is amended by striking ''$2,000'' and inserting ''$10,000''.

(c) FALSITY OR LACK OF MANIFEST.—Section 584(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1584(a)(1)) is amended by striking ''$1,000'' in each place it occurs and inserting ''$10,000''.

SEC. 10. STOWAWAYS ON VESSELS OR AIRCRAFT.

Section 2199 of title 18, United States Code, is amended by striking ''Shall be fined under this title or imprisoned not more than one year, or both.'' and inserting the following:

''(1) shall be fined under this title, imprisoned not more than 5 years, or both;

''(2) if the person commits an act proscribed by this section, with the intent to commit serious bodily injury, and serious bodily injury occurs (as defined under section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242) to any person other than a participant as a result of a violation of this section, shall be fined under this title, imprisoned not more than 20 years, or both; and

''(3) if an individual commits an act proscribed by this section, with the intent to cause death, and if the death of any person other than a participant occurs as a result of a violation of this section, shall be fined under this title, imprisoned for any number of years or for life, or both.''.

SEC. 11. BRIBERY AFFECTING PORT SECURITY.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

''§ 226. Bribery affecting port security

''(a) IN GENERAL.—Whoever knowingly—

''(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any public or private person, with intent—

''(A) to commit international or domestic terrorism (as that term is defined under section 2331);

''(B) to influence any action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud affecting any secure or restricted area or seaport; or

''(C) to induce any official or person to do or omit to do any act in violation of the fiduciary duty of such official or person which affects any secure or restricted area or seaport; or

''(2) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for—

''(A) being influenced in the performance of any official act affecting any secure or restricted area or seaport; and

''(B) knowing that such influence will be used to commit, or plan to commit, international or domestic terrorism

''shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) DEFINITION.—In this section, the term 'secure or restricted area' has the meaning given that term in section 2285(c).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

''226. Bribery affecting port security.''.

Mrs. FEINSTEIN. Mr. President, I rise today, along with Senators BIDEN, SPECTER, KYL, HOLLINGS and ALLEN, to introduce the Reducing Crime and Terrorism at America's Seaports Act of 2004—legislation designed to deter, prevent and punish a terrorist attack at or through one of our Nation's seaports.

I would like to thank Senator KYL for joining me in sponsoring this bill, as well as Senators BIDEN, SPECTER, HOLLINGS and ALLEN for their leadership and hard work on this critical matter.

Last year, Senator KYL and I introduced the Anti-Terrorism and Port Security Act of 2003. That bill contained a set of comprehensive measures to enhance the security of our ports. At the same time, Senators BIDEN and SPECTER were working on legislation largely focused on the criminal law aspect of Port Security.

Since that time we have joined together to craft the bill now before us. The legislation is narrow in focus, limited primarily to criminal law provisions. It is my hope that it will enjoy strong bipartisan support.

I also hope we can continue to work towards a more comprehensive approach to seaport security in the coming months.

Our nation's seaports represent the soft underbelly of our Nation's homeland security. Our adversaries, including al-Qaida and other terrorist groups, have the plans and capabilities to launch a maritime attack. In fact, just last week six al-Qaida associates were charged with planning the 2000 attack on the U.S.S. *Cole*. in Yemen that left 19 American sailors dead.

Millions of shipping containers pass through our ports each month. A single container has room for as much as 60,000 pounds of explosives—10 to 15 times the amount in the Ryder truck used to blow up the Murrah Federal Building in Oklahoma City. When you consider that a single ship can carry as many as 8,000 containers at one time, the vulnerability of our seaports is alarming.

Worse, a suitcase-sized nuclear device or radiological ''dirty bomb'' could also be placed in a container and shipped into the country. With the current monitoring system, the odds are that the container would never be inspected. And, even if the container was inspected, it would be too late.

In addition to the danger such attacks present to human lives, an attack on or through a seaport could have devastating economic consequences. Excluding trade with Mexico and Canada, America's ports handle 95 percent of goods imported and exported from the U.S. That means 800 million tons of cargo valued at approximately $600 billion. A terrorist attack would bring our port operations

to a complete standstill. To give you even a small glimpse of what such a disruption could mean, last year's West Coast labor dispute cost the U.S. economy somewhere between $1 and $2 billion per day—a total of $10 to $20 billion.

In its December 2002 report, the Hart-Rudman Terrorism Task Force described what a terrorist attack at or through one of our ports might mean in economic terms: ''If an explosive device were loaded in a container and set off in a port, it would almost automatically raise concern about the integrity of the 21,000 containers that arrive in U.S. ports each day and the many thousands more that arrive by truck and rail across U.S. land borders. A three-to-four-week closure of U.S. ports would bring the global container industry to its knees. Megaports such as Rotterdam and Singapore would have to close their gates to prevent boxes from piling up on their limited pier space. Trucks, trains, and barges would be stranded outside the terminals with no way to unload their boxes. Boxes bound for the United States would have to be unloaded from their outbound ships. Service contracts would need to be renegotiated. As the system became gridlocked, so would much of global commerce.''

This is a national issue, but one of particular concern to my home state because more than half of all goods imported into the U.S. pass through my home State of California.

Last year, 6.5 million imported containers—52 percent of the containers entering the United States—traveled through California. Six million of these came through two ports alone: the Port of Los Angeles and the Port of Long Beach.

That means that, if terrorists succeeded in putting a weapon of mass destruction into a container undetected, there is a one in two chance that this weapon would arrive and/or be detonated in Southern California.

And the problem is not just with containers. Nearly one-quarter of California's imported crude oil is offloaded in one area. A suicide attack on a tanker at an offloading facility could leave Southern California without refined fuels within a few days.

Since September 11, we have made significant steps in enhancing port security, but clearly, there is more to be done. This bill addresses some of those needed enhancements, particularly in the area of criminal law.

The Reducing Crime and Terrorism at America's Seaports Act of 2004 does the following: Clarifies existing law to make clear that those who would try to access our ports under false pretenses are committing a crime; makes it a crime to refuse to stop when the Coast Guard orders a ship to standby for inspection; sets clear criminal penalties for the use of a dangerous weapon or explosive on a passenger vessel such as a cruise ship; imposes criminal penalties for those who tamper with navigational aids, such as buoys and transponders, intentionally place destructive devices in navigable waters, or intentionally dump hazardous materials in waterways; establishes a specific crime for knowingly and willfully transporting aboard any vessel an explosive, biological agent, chemical weapon, or radioactive or nuclear materials intended to be used to commit a terrorist act; the bill also makes it a crime to knowingly and willfully transport a person aboard any vessel who intends to commit, or has committed, a terrorist act; makes it a crime to damage or destroy a vessel or a maritime facility, to commit an act of violence against any individual on a vessel or near a port facility, or to knowingly communicate false information that endangers the safety of a vessel; provides sanctions to deter criminal or civil violations related to a range of offenses, including theft of interstate or foreign shipments; amends existing law to increase penalties for noncompliance with certain reporting and record-keeping requirements for incoming ships, including information regarding the content of cargo containers and the country from which the shipments originated; and finally, the bill toughens anti-stowaway laws and laws governing bribery of port security officials.

Strengthening criminal penalties is one way we can make our Nation's ports less vulnerable. The Coast Guard, the FBI, Customs and Immigration authorities—all need the appropriate crime-fighting tools to prevent a terrorist attack. Today, we are introducing legislation to provide the crime-fighting tools that will do just that.

I ask unanimous consent that an analysis of the bill be printed in the RECORD.

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

SEC. 2. ENTRY BY FALSE PRETENSES TO ANY PORT.

Section 2 would clarify that section 1036 of title 18 (fraudulent access to transport facilities) includes seaports and waterfronts within its scope, as well as increase the maximum term of imprisonment for a violation from 5 years to 10 years. *This provision was included in the originally introduced Biden-Specter Bill, but not in the Feinstein-Kyl Bill.*

SEC. 3. CRIMINAL SANCTIONS FOR FAILURE TO "HEAVE TO," OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.

Section 3 would amend the U.S. Code to make it a crime (1) for a vessel operator knowingly to fail to slow or stop a ship once ordered to do so by a federal law enforcement officer; (2) for any person on board a vessel to impede boarding or other law enforcement action authorized by federal law; or (3) for any person on board a vessel to provide false information to a federal law enforcement officer (punishable by a fine and/or imprisonment for a maximum term of 5 years). *This provision was included in both the Biden-Specter and Feinstein-Kyl Bills, but the Feinstein-Kyl Bill included a lower penalty of 1-year maximum imprisonment.*

SEC. 4. USE OF A DANGEROUS WEAPON OR EXPLOSIVE ON A PASSENGER VESSEL.

Section 4 would amend section 1993 of title 18 (terrorist attacks and other acts of violence against mass transportation systems) to make it a crime to willfully use a dangerous weapon (including chemical, biological, radiological or nuclear materials) or explosive, with the intent to cause death or serious bodily injury to any person on board a passenger vessel (punishable by a fine and/or imprisonment for a maximum term of 20 years; and, if death results, for a term of imprisonment up to life). *Both the Biden-Specter and Feinstein-Kyl Bills, employing different language, included a provision that would achieve this aim. The substitute incorporates the Biden-Specter approach.*

SEC. 5. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES, AND MALICIOUS DUMPING.

Section 5 would amend the criminal code to make it a crime to intentionally damage or tamper with any maritime navigational aid maintained by the Coast Guard or under its authority, if such act endangers the safe navigation of a ship; or knowingly place in waters any device or substance which is likely to damage a vessel or its cargo, interfere with a vessel's safe navigation, or interfere with maritime commerce (punishable by a fine and/or a term of imprisonment up to life; if death results, by a sentence of death). This section would also make it a crime to willfully and maliciously discharge a hazardous substance into U.S. waters, with the intent to cause death, serious bodily harm, or catastrophic economic injury (punishable by a fine and/or a term of imprisonment up to life; and, where an individual engages in the prohibited conduct with an intent to cause harm to the marine environment, by a fine and/or imprisonment for a maximum term of 30 years). *Both the Biden-Specter and Feinstein-Kyl Bills included this provision, but, unlike the originally-introduced bills, the substitute measure excludes the death penalty for violations of the malicious dumping provision.*

SEC. 6. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.

This section would make it a crime to knowingly and willfully transport aboard any vessel an explosive, biological agent, chemical weapon, or radioactive or nuclear materials, knowing that the item is intended to be used to commit a terrorist act (punishable by a fine and/or a term of imprisonment up to life; and, if death results, by a sentence of death). This section would also make it a crime to knowingly and willfully transport aboard any vessel any person who intends to commit, or is avoiding apprehension after having committed, a terrorist act (punishable by a fine and/or a term of imprisonment up to life). *This provision was included in the originally introduced Biden-Specter Bill, but not in the Feinstein-Kyl Bill.*

SEC. 7. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.

This section would make it a crime to (1) damage or destroy a vessel or its parts, a maritime facility, or any apparatus used to store, load or unload cargo and passengers; (2) perform an act of violence against or incapacitate any individual on a vessel or at or near a facility; or (3) knowingly communicate false information that endangers the safety of a vessel (punishable by a fine and/or imprisonment for a maximum term of 20 years; if the act involves a vessel carrying high-level radioactive waste or spent nuclear fuel, by a fine and/or a term of imprisonment up to life; and, if death results, by a sentence of death). *This provision was included in both the Biden-Specter and Feinstein-Kyl Bills. The Biden-Specter Bill also included an exception*

for otherwise lawful activities (e.g., normal repair, salvage activities, authorized transportation of hazardous materials) and a bar to federal prosecution if the conduct is de minimus (e.g., blown-out tire) or occurred during legitimate labor activity. The substitute measure incorporates these elements of the Biden-Specter Bill.

SEC. 8. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.

Section 8 would expand the scope of section 659 of title 18 (theft of interstate or foreign shipments) to include theft of goods from additional transportation facilities or instruments, including trailers, cargo containers, and warehouses; and would increase the maximum term of imprisonment for low-level thefts from 1 year to 3 years. *This provision was included in the originally introduced Biden-Specter Bill, but not in the Feinstein-Kyl Bill.*

SEC. 9. INCREASED PENALTIES FOR NONCOMPLIANCE WITH MANIFEST REQUIREMENTS.

Section 509 would amend section 1436 of title 19 to increase the penalties for noncompliance with certain manifest reporting and record-keeping requirements, including information regarding the content of cargo containers and the country from which the shipments originated. *This provision was included in both the Biden-Specter and Feinstein-Kyl Bills, but the Biden-Specter Bill included lesser penalties. The substitute measure reflects the penalty structure set out in the Biden-Specter Bill.*

SEC. 10. STOWAWAYS ON VESSELS OR AIRCRAFT.

This section would increase the maximum penalty for a violation of section 2199 (stowaways on vessels or aircraft) of title 18 from 1 year to 5 years. If the act is committed with the intent to commit serious bodily injury and serious bodily injury does in fact occur, it would be punishable by a fine and/or a term of imprisonment up to 20 years. If the act is committed with the intent to cause death, it would be punishable by a fine and/or a term of imprisonment up to life. *This provision was not included in either the Biden-Specter or Feinstein-Kyl Bills, but is included in the substitute measure on Senator Hatch's request.*

SEC. 11. BRIBERY AFFECTING PORT SECURITY.

This section would make it a crime to knowingly bribe a public official, with the intent to commit international or domestic terrorism; or for anyone to receive a bribe in return for being influenced in his or her public duties, knowing that such influence will be used to commit, or plan to commit, an act of terrorism (punishable by a term of imprisonment up to 15 years). *This provision was not included in either the Biden-Specter or Feinstein-Kyl Bills, but is included in the substitute measure on Senator Hatch's request.*

By Mr. DODD:

S. 2654. A bill to provide for Kindergarten Plus programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce legislation with my colleagues Senator KENNEDY and Senator BINGAMAN to jump-start school success for low-income children. Today we are introducing the Sandy Feldman Kindergarten Plus Act of 2004.

Sandy Feldman, the President of the American Federation of Teachers, stepped down today after decades of public service. If there is one goal to which Sandy has dedicated herself over the years, it is the education of our Nation's children.

Sandy is the product of New York City's public schools. She knows what great promise public education holds for our Nation. But, she also knows that all too often, we don't give our schools the resources they need to be able to live up to that promise.

While I've worked with Sandy for many years, I've been particularly privileged to work with her in the area of early childhood education. It was Sandy who developed the concept for this Kindergarten Plus legislation and Sandy who spent countless hours developing the details to ensure that the initiative would work in a diverse array of communities.

Although Sandy is leaving the AFT, I know she will continue fighting for our Nation's children, and for mothers, fathers, and teachers across this Nation. I look forward to her continued counsel and advice on education issues and other issues of importance to families.

The Kindergarten Plus legislation we are introducing today will offer competitive grants to States to provide children below 185 percent of the poverty line with a transitional kindergarten during the summer before kindergarten formally begins and a transitional first grade during the summer between kindergarten and first grade.

Why an extra four months of kindergarten for these children? The answer is simple. Because too many low income children today enter kindergarten unprepared for the year ahead, far behind their wealthier peers in both academic and social skills.

According to a recent survey, 46 percent of kindergarten teachers report that at least half of their class or more has specific problems with entry into kindergarten. Yet, kindergarten is critical in preparing children to succeed in elementary school, especially for children at-risk of academic failure.

There is no panacea, no magic wand to erase the deficiencies that too many low income children have in entering kindergarten on par with their more economically well-off peers. It is simply not possible in a two month period before kindergarten begins or in a nine-month half day pre-kindergarten program to wipe away the advantages that wealthier children have had in their first five years of life that result in the skill set with which they enter kindergarten.

We can, however, do a better job of preparing less fortunate children for school. We can expose them to classroom practices and routines and the expectations for kindergarten behavior and protocol. We can introduce them to concepts and help them understand that classrooms have rules. We can expose them to literature, story time or circle time. We can help them understand that books are made up of printed words and that words are made up of individual letters. We can ask them questions to help develop their critical thinking skills, like what do you think will happen next in the story? Why? We can offer them ''show and tell'' to develop their oral language skills and ability to speak out loud in sequential sentences.

Many children enter kindergarten with these skills. But, many do not. During the school year before a child is eligible to enter kindergarten, about 75 percent of children in families with more than $75,000 in income participate in some type of center-based program, compared to 51 percent of children in families with incomes between $10,000 and $20,000.

The numbers are much more stark when looking at the children of mothers who dropped out of high school. Recent data shows that about 74 percent of 3, 4, and 5 year old children whose mothers graduated from college were enrolled in a center-based program compared to only 42 percent of 3, 4, and 5 year old children whose mothers did not complete high school.

How does this translate to children? Some children know how to follow directions and some children do not. Some children transition well between activities as part of a daily routine, some children do not. About 85 percent of high income children, compared to 39 percent of low income children, can recognize letters of the alphabet upon arrival in kindergarten. About half the children of college graduates can identify the beginning sounds of words, but only 9 percent of the children whose parents didn't complete high school can recognize the beginning sounds of words.

Of equal concern, kindergarten teachers report that about 80 percent of children whose mothers graduated from college persist at a task and are eager to learn whereas only about 60 percent of the children whose mothers have not graduated from high school persist at a task and are eager to learn.

What we know from the research is that children can enter kindergarten better prepared to learn. We may not be able to close the gap between low income children and their wealthier peers, but we can certainly narrow it considerably.

Our bill would provide states with resources to offer a transitional kindergarten during the summer before kindergarten begins. This would enable local school districts to offer a jumpstart on kindergarten with smaller class sizes during the summer. Before all kindergarten eligible children arrive, K+ children would have an introduction to kindergarten. The same opportunity would be part of the program for the summer between kindergarten and first grade.

The introductory period would enable school districts to target low income children who may never before have participated in a center-based program such as Head Start or state pre-k, or nursery school. They could target low income English language learners or low income children who participated in Head Start or state pre-k who could continue their progress during the summer.

About 65 percent of mothers with children under age 6 are in the workforce today. Every day, about 13 million preschoolers, including 6 million infants and toddlers, are in some type of child care arrangement. What we are trying to do with this bill is to pull out low income children who would be eligible to enter kindergarten in the fall and offer them a summer enrichment period as an introduction to kindergarten. It might be that a local Head Start or community-based organization's preschool would continue to operate their programs during the summer. However, these are local decisions made by school districts that apply for and receive K+ funding.

It should be clear that the K+ program would operate as a supplement to existing programs, most of which follow the school calendar. In fact, children who participate in a high quality early learning program during the summer before kindergarten are not eligible to participate in K+ to avoid duplication of efforts and scarce resources.

In the National Academy of Sciences report, ''From Neurons to Neighborhoods: the Science of Early Childhood Development'', numerous recommendations are made to improve the foundation with which children enter school. The report points out that with so many parents working today, the burden of poor quality and limited choice in child care rests most heavily on low income working families whose financial resources are too high to qualify for subsidies or Head Start yet too low to afford market prices for quality child care.

It is the children of the working poor who are very much at risk of beginning kindergarten behind their wealthier and poorer peers. Yet, it is these children in addition to poor children who are most likely to enter kindergarten behind their wealthier peers, unprepared for the year ahead.

Supporting the K+ program is the American Federation of Teachers, AFT, the Parent-Teacher Association, PTA, the Council of Great City Schools, the Society for Research in Child Development, SRCD, the Children's Defense Fund, and Easter Seals.

We urge you to join us as cosponsors of this legislation and help give low income children a jump-start on school success.

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

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

S. 2654

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Kindergarten Plus Act of 2004''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Kindergarten has proven to be a beneficial experience for children, putting children on a path that positively influences their learning and development in later school years.

(2) Kindergarten and the years leading up to kindergarten are critical in preparing children to succeed in elementary school, especially if the children are from low-income families or have other risks of difficulty in school.

(3) Disadvantaged children, on average, lag behind other children in literacy, numeracy, and social skills, even before formal schooling begins.

(4) For many children entering kindergarten, the achievement gap between children from low-income households compared to children from high-income households is already evident.

(5) 85 percent of beginning kindergartners in the highest socioeconomic group, compared to 39 percent in the lowest socioeconomic group, can recognize letters of the alphabet. Similarly, 98 percent of beginning kindergartners in the highest socioeconomic group, compared to 84 percent of their peers in the lowest socioeconomic group, can recognize numbers and shapes.

(6) Once disadvantaged children are in school, they learn at the same rate as other children. Therefore, providing disadvantaged children with additional time in kindergarten, in the summer before such children ordinarily enter kindergarten and in the summer before first grade, will help schools close achievement gaps and accelerate the academic progress of their disadvantaged students.

(7) High quality, extended-year kindergarten that provides children with enriched learning experiences is an important factor in helping to close achievement gaps, rather than having the gaps continue to widen.

SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE STUDENT.—The term ''eligible student'' means a child who—

(A) is a 5-year old, or will be eligible to attend kindergarten at the beginning of the next school year;

(B) comes from a family with an income at or below 185 percent of the poverty line; and

(C) is not already served by a high-quality program in the summer before or the summer after the child enters kindergarten.

(2) KINDERGARTEN PLUS.—The term ''Kindergarten Plus'' means a voluntary full day of kindergarten, during the summer before and during the summer after, the traditional kindergarten school year (as determined by the State).

(3) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(4) PARENT.—The term ''parent'' includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare).

(5) PARENTAL INVOLVEMENT.—The term ''parental involvement'' means the participation of parents in regular, 2-way, and meaningful communication with school personnel involving student academic learning and other school activities, including ensuring that parents—

(A) play an integral role in assisting their child's learning;

(B) are encouraged to be actively involved in their child's education at school; and

(C) are full partners in their child's education and are included, as appropriate, in decisionmaking and on advisory committees to assist in the education of their child.

(6) POVERTY LINE.—The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(7) ELIGIBLE PROVIDER.—The term ''eligible provider'' means a local educational agency or a private not-for-profit agency or organization, with a demonstrated record in the delivery of early childhood education services to preschool-age children, that provides high-quality early learning and development experiences that—

(A) are aligned with the expectations for what children should know and be able to do when the children enter kindergarten and grade 1, as established by the State educational agency; or

(B) in the case of an entity that is not a local educational agency and that serves children who have not entered kindergarten, meet the performance standards and performance measures described in subparagraphs (A) and (B) of subsection (a)(1), and subsection (b), of section 641A of the Head Start Act (42 U.S.C. 9836a) or the prekindergarten standards of the State where the entity is located.

(8) SCHOOL READINESS.—The term ''school readiness'' means the cognitive, social, emotional, approaches to learning, and physical development of a child, including early literacy and early mathematics skills, that prepares the child to learn and succeed in elementary school.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(10) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

SEC. 4. GRANTS TO STATE EDUCATIONAL AGENCIES AUTHORIZED.

(a) IN GENERAL.—The Secretary is authorized to award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to provide Kindergarten Plus within the State.

(b) SUFFICIENT SIZE.—To the extent possible, the Secretary shall ensure that each grant awarded under this section is of sufficient size to enable the State educational agency receiving the grant to provide Kindergarten Plus to all eligible students served by the local educational agencies within the State with the highest concentrations of eligible students.

(c) MINIMUM AMOUNT.—The Secretary shall not award a grant to a State educational agency under this section in an amount that is less than $500,000.

(d) STATE USE OF FUNDS.—A State educational agency shall use—

(1) not more than 3 percent of the grant funds received under this Act for administration of the Kindergarten Plus programs supported under this Act;

(2) not more than 5 percent of the grant funds received under this Act to develop professional development activities and curricula for teachers and staff of Kindergarten Plus programs in order to develop a continuum of developmentally appropriate curricula and practices for preschool, kindergarten, and grade 1 that ensures—

(A) an effective transition to kindergarten and to grade 1 for students; and

(B) appropriate expectations for the students' learning and development as the students make the transition to kindergarten and to grade 1; and

(3) the remainder of the grant funds to award subgrants to local educational agencies.

(e) PRIORITY.—In awarding grants under this Act the Secretary shall give priority to State educational agencies that—

(1) on their own or in combination with other government agencies, provide full day kindergarten to all kindergarten-age children who are from families with incomes below 185 percent of the poverty line within the State; or

(2) demonstrate progress toward providing full day kindergarten to all kindergarten-age children who are from families with incomes below 185 percent of the poverty line within the State by submitting a plan that shows how the State educational agency will, at a minimum, double the number of such children that were served by a full day kindergarten program in the school year preceding the school year for which assistance is first sought.

SEC. 5. SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—Each State educational agency that receives a grant under this Act—

(1) shall reserve an amount sufficient to continue to fund multiyear subgrants awarded under this section; and

(2) shall award subgrants to local educational agencies within the State to enable the local educational agencies to pay the Federal share of the costs of carrying out Kindergarten Plus programs for eligible students.

(b) PRIORITY.—In awarding subgrants under this section the State educational agency shall give priority to local educational agencies—

(1) serving the greatest number or percentage of kindergarten-age children who are from families with incomes below 185 percent of the poverty line, based on data from the most recent school year; and

(2) that propose to significantly reduce the class size and student-to-teacher ratio of the classes in their Kindergarten Plus programs below the average class size and student-to-teacher ratios of kindergarten classes served by the local educational agencies.

(c) FEDERAL SHARE.—The Federal share of the costs of carrying out a Kindergarten Plus program shall be—

(1) 100 percent for the first, second, and third years of the program;

(2) 85 percent for the fourth year of the program; and

(3) 75 percent for the fifth year of the program.

(d) IN-KIND CONTRIBUTIONS.—The non-Federal share of the costs of carrying out a Kindergarten Plus program may be in the form of in-kind contributions.

SEC. 6. STATE APPLICATION.

(a) IN GENERAL.—In order to receive a grant under this Act, a State educational agency shall submit an application to the Secretary at such time and containing such information as the Secretary determines appropriate.

(b) CONSULTATION.—The application shall be developed by the State educational agency in consultation with representatives of early childhood education programs, early childhood education teachers, principals, pupil services personnel, administrators, paraprofessionals, other school staff, early childhood education providers (including Head Start agencies, State prekindergarten program staff, and child care providers), teacher organizations, parents, and parent organizations.

(c) CONTENTS.—At a minimum, the application shall include—

(1) a description of developmentally appropriate teaching practices and curricula for children that will be put in place to be used by local educational agencies and eligible providers offering Kindergarten Plus programs to carry out this Act;

(2) a general description of the nature of the Kindergarten Plus programs to be conducted with funds received under this Act, including—

(A) the number of hours each day and the number of days each week that children in each Kindergarten Plus program will attend the program; and

(B) if a Kindergarten Plus program meets for less than 9 hours a day, how the needs of full-time working families will be addressed;

(3) goals and objectives to ensure that high-quality Kindergarten Plus programs are provided;

(4) an assurance that students enrolled in Kindergarten Plus programs funded under this Act will receive additional comprehensive services (such as nutritional services, health care, and mental health care), as needed; and

(5) a description of how—

(A) the State educational agency will coordinate and integrate services provided under this Act with other educational programs, such as Even Start, Head Start, Reading First, Early Reading First, State-funded preschool programs, preschool programs funded under section 619 or other provisions of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1411 et seq.), and kindergarten programs;

(B) the State will provide professional development for teachers and staff of local educational agencies and eligible providers that receive subgrants under this Act regarding how to address the school readiness needs of children (including early literacy, early mathematics, and positive behavior) before the children enter kindergarten, throughout the school year, and into the summer after kindergarten;

(C) the State will assist Kindergarten Plus programs to provide exemplary parent education and parental involvement activities such as training and materials to assist parents in being their children's first teachers at home or home visiting;

(D) the State will conduct outreach to parents with eligible students, including parents whose native language is not English, parents of children with disabilities, and parents of migratory children; and

(E) the State educational agency will ensure that each Kindergarten Plus program uses developmentally appropriate practices, including practices and materials that are culturally and linguistically appropriate for the population of children being served in the program.

SEC. 7. LOCAL APPLICATION.

(a) IN GENERAL.—In order to receive a subgrant under this Act, a local educational agency shall submit an application to the State educational agency at such time and containing such information as the State educational agency determines appropriate.

(b) CONSULTATION.—The application shall be developed by the local educational agency in consultation with early childhood education teachers, principals, pupil services personnel, administrators, paraprofessionals, other school staff, early childhood education providers (including Head Start agencies, State prekindergarten program staff, and child care providers), teacher organizations, parents, and parent organizations.

(c) CONTENTS.—At a minimum, the application shall include a description of—

(1) the standards, research-based and developmentally appropriate curricula, teaching practices, and ongoing assessments for the purposes of improving instruction and services, to be used by the local educational agency that—

(A) are aligned with the State expectations for what children should know and be able to do when the children enter kindergarten and grade 1, as set by the State educational agency; and

(B) include—

(i) language skills, including an expanded use of vocabulary;

(ii) interest in and appreciation of books, reading, writing alone or with others, and phonological and phonemic awareness;

(iii) premathematics knowledge and skills, including aspects of classification, seriation, number sense, spatial relations, and time;

(iv) other cognitive abilities related to academic achievement;

(v) social and emotional development, including self-regulation skills;

(vi) physical development, including gross and fine motor development skills;

(vii) in the case of limited English proficiency, progress toward the acquisition of the English language; and

(viii) approaches to learning;

(2) how the local educational agency will ensure that the Kindergarten Plus program uses curricula and practices that—

(A) are developmentally, culturally, and linguistically appropriate for the population of children served in the program; and

(B) are aligned with the State learning standards and expectations for children in kindergarten and grade 1;

(3) how the Kindergarten Plus program will improve the school readiness of children served by the local educational agency under this Act, especially in mathematics and reading;

(4) how the Kindergarten Plus program will provide continuity of services and learning for children who were previously served by a different program;

(5) how the local educational agency will ensure that the Kindergarten Plus program has appropriate services and accommodations in place to serve children with disabilities and children who are limited English proficient;

(6) how the local educational agency will perform a needs assessment to avoid duplication with other programs within the geographic area served by the local educational agency;

(7) how the local educational agency will—

(A) transition Kindergarten Plus participants into local elementary school programs and services;

(B) ensure the development and use of systematic, coordinated records on the educational development of each child participating in the Kindergarten Plus program through periodic meetings and communications among—

(i) Kindergarten Plus program teachers;

(ii) elementary school staff; and

(iii) local early childhood education program providers, including Head Start agencies, State prekindergarten program staff, and center-based and family child care providers;

(C) provide parent and child orientation sessions conducted by teachers and staff; and

(D) provide a qualified staff person to be in charge of coordinating the transition services;

(8) how the local educational agency will provide instructional and environmental accommodations in the Kindergarten Plus program for children who are limited English proficient, children with disabilities, migratory children, neglected or delinquent youth, Indian children served under part A of title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7401 et seq.), homeless children, and immigrant children;

(9) how the local educational agency will conduct outreach to parents of eligible students, including parents whose native language is not English, parents of children with disabilities, and parents of migratory children, which may include—

(A) activities to provide parents early exposure to the school environment, including meetings with teachers and staff;

(B) activities to better engage and inform parents on the benefits of Kindergarten Plus and other programs; and

(C) other efforts to ensure that parents have a level of comfort with the Kindergarten Plus program and the school environment;

(10) how the local educational agency will assist the Kindergarten Plus program to provide exemplary parent education and parental involvement activities such as training and materials to assist parents in being their children's first teachers at home or home visiting; and

(11) how the local educational agency will work with local center-based and family child care providers and Head Start agencies to ensure—

(A) the nonduplication of programs and services; and

(B) that the needs of working families are met through child care provided before and after the Kindergarten Plus program.

SEC. 8. LOCAL REQUIREMENTS AND PROVISIONS.

(a) LOCAL USES OF FUNDS.—A local educational agency that receives a subgrant under this Act shall use the subgrant funds for the following:

(1) The operational and program costs associated with the Kindergarten Plus program as described in the application to the State educational agency.

(2) Personnel services, including teachers, paraprofessionals, and other staff as needed.

(3) Additional services, as needed, including snacks and meals, mental health care, health care, linguistic assistance, special education and related services, and transportation services associated with the needs of the children in the program.

(4) Transition services to ensure children make a smooth transition into first grade and proper communication is made with the elementary school on the educational development of each child.

(5) Outreach and recruitment activities, including community forums and public service announcements in local media in various languages if necessary to ensure that all individuals in the community are aware of the availability of such program.

(6) Parental involvement programs, including materials and resources to help parents become more involved in their child's learning at home.

(7) Extended day services for the eligible students of working families, including working with existing programs in the community to coordinate services if possible.

(8) Child care services, provided through coordination with local center-based child care and family child care providers, and Head Start agencies, before and after the Kindergarten Plus program for the children participating in the program, to accommodate the schedules of working families.

(9) Enrichment activities, such as—

(A) art, music, and other creative arts;

(B) outings and field trips; and

(C) other experiences that support children's curiosity, motivation to learn, knowledge, and skills.

(b) ELIGIBLE PROVIDER GRANTS AND APPLICATIONS.—The local educational agency may use subgrant funds received under this Act to award a grant to an eligible provider to enable the eligible provider to carry out a Kindergarten Plus program for the local educational agency. Each eligible provider desiring a grant under this subsection shall submit an application to the local educational agency that contains the descriptions set forth in section 7 as applied to the eligible provider.

(c) CONTINUITY.—In carrying out a Kindergarten Plus program under this Act, a local educational agency is encouraged to explore ways to develop continuity in the education of children, for instance by keeping, if possible, the same teachers and personnel from the summer before kindergarten, through the kindergarten year, and during the summer after kindergarten.

(d) COORDINATION.—In carrying out a Kindergarten Plus program under this Act, a local educational agency shall coordinate with existing programs in the community to provide extended care and comprehensive services for children and their families in need of such care or services.

SEC. 9. TEACHER AND PERSONNEL QUALITY STANDARDS.

To be eligible for a subgrant under this Act, each local educational agency shall ensure that—

(1) each Kindergarten Plus classroom has—

(A) a highly qualified teacher, as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); or

(B) if an eligible provider who is not a local educational agency is providing the Kindergarten Plus program in accordance with section 8(b), a teacher that, at a minimum, has a bachelor's degree in early childhood education or a related field and experience in teaching children of this age;

(2) a qualified paraprofessional that meets the requirements for paraprofessionals under section 1119 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319), is in each Kindergarten Plus classroom;

(3) Kindergarten Plus teachers and paraprofessionals are compensated on a salary scale comparable to kindergarten through grade 3 teachers and paraprofessionals in public schools served by the local educational agency; and

(4) Kindergarten Plus class sizes do not exceed the class size and ratio parameters set at the State or local level for the traditional kindergarten program.

SEC. 10. DIRECT GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) GRANTS AUTHORIZED.—If a State educational agency does not apply for a grant under this Act or does not have an application approved under section 6, then the Secretary is authorized to award a grant to a local educational agency within the State to enable the local educational agency to pay the Federal share of the costs of carrying out a Kindergarten Plus program.

(b) ELIGIBILITY.—A local educational agency shall be eligible to receive a grant under this section if the local educational agency operates a full day kindergarten program that, at a minimum, is targeted to kindergarten-age children who are from families with incomes below 185 percent of the poverty line within the State.

(c) APPLICATION.—In order to receive a grant under subsection (a), a local educational agency shall submit to the Secretary an application that—

(1) contains the descriptions set forth in section 7; and

(2) includes an assurance that the Kindergarten Plus program funded under such grant will serve eligible students.

(d) APPLICABILITY.—Sections 8 and 9 shall apply to a local educational agency receiving a grant under this section in the same manner as the sections apply to a local educational agency receiving a subgrant under section 5(a).

SEC. 11. EVALUATION, COLLECTION, AND DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—Each State educational agency that receives a grant under this Act, in cooperation with the local educational agencies in the State that receive a subgrant under this Act, shall create an evaluation mechanism to determine the effectiveness of the Kindergarten Plus programs in the State, taking into account—

(1) information from the local needs assessment, conducted in accordance with section 7(c)(6), including—

(A) the number of eligible students in the geographic area;

(B) the number of children served by Kindergarten Plus programs, disaggregated by family income, race, ethnicity, native language, and prior enrollment in an early childhood education program; and

(C) the number of children with disabilities served by Kindergarten Plus programs;

(2) the recruitment of teachers and staff for Kindergarten Plus programs, and the retention of such personnel in the programs for more than 1 year;

(3) the provision of services for children and families served by Kindergarten Plus programs, including parent education, home visits, and comprehensive services for families who need such services;

(4) the opportunities for professional development for teachers and staff; and

(5) the curricula used in Kindergarten Plus programs.

(b) COMPARISON.—The evaluation process may include comparison groups of similar children who do not participate in a Kindergarten Plus program.

(c) INFORMATION COLLECTION AND REPORTING.—The information necessary for the evaluation shall be collected yearly by the State and reported every 2 years by the State to the Secretary.

(d) ANALYSIS OF EFFECTIVENESS.—The Secretary shall conduct an analysis of the overall effectiveness of the programs assisted under this Act and make the analysis available to Congress, and the public, biannually.

SEC. 12. SUPPLEMENT NOT SUPPLANT.

Funds made available under this Act shall be used to supplement, not supplant, other Federal, State, or local funds available to carry out activities under this Act.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this Act, there are authorized to be appropriated $1,500,000,000 for fiscal year 2005 and such sums as may be necessary for each of the fiscal years 2006 through 2010.

SUMMARY OF THE SANDY FELDMAN KINDERGARTEN PLUS (K+) ACT OF 2004

Purpose: To provide disadvantaged children with additional time in kindergarten during the summer before and summer after the traditional kindergarten school year, and to help ensure that more children enter school ready to succeed.

Background: Kindergarten is critical in preparing children to succeed in elementary school. Many low-income children begin kindergarten lagging behind other children in literacy, math, and social skills, even before formal schooling begins.

85 percent of high-income children, compared to 39 percent of low-income children, can recognize letters of the alphabet upon arrival in kindergarten. Half the children of parents who have graduated from college can identify the beginning sounds of words, but only 9 percent of the children whose parents have not completed high school recognize the beginning sounds of words. Kindergarten teachers report that about 80 percent of the children whose mothers graduated from college persist at a task and are eager to learn whereas only about 60 percent of the children whose mothers have not graduated from high school persist at a task and are eager to learn.

Brief Bill Summary: K+ creates a competitive grant program for states to provide

local education agencies (LEAs) with funds to provide kindergarten to disadvantaged children the summer before and the summer after the traditional kindergarten school year. In awarding grants to LEAs, States shall give priority to educational agencies serving the greatest number or percentage of kindergarten-aged children who are from families with incomes below 185 percent of the poverty line and to LEAs that will significantly reduce kindergarten class sizes for their summer programs.

To be eligible for a grant, States must have in place: developmentally appropriate practices and curriculum; goals and objectives for a high quality summer program; a description of how the State will provide professional development for K+ teachers and staff; a description of how the State will assist K+ programs to reach out to, and work with, parents; and, a means to collect evaluative data to determine the effectiveness of K+ programs across their state.

To be eligible for a subgrant, LEAs must have in place: readiness standards and developmentally appropriate curricula; a plan for using classroom practices and strategies proven to be effective; a plan for notifying parents and the community regarding the availability of K+; a plan for parental involvement in any K+ program; and, a plan to demonstrate how they will accommodate the needs of working parents with ''before and after'' child care services.

Funds to LEAs may be used to: pay for operational and programmatic costs, including personnel and transportation; transition services to first grade; outreach and recruitment; parental involvement programs; and child care services. Each LEA shall ensure a highly qualified teacher and qualified paraprofessional or for non-school based programs a teacher that at a minimum has a Bachelor's degree in early childhood education.

The bill authorizes $1.5 billion for fiscal year 2005, and such sums as may be necessary for years 2006–2010; the minimum State grant is $500,000.

By Mr. SMITH:

S. 2655. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the production of water and energy efficient appliances; to the Committee on Finance.

Mr. SMITH. Mr. President, water is a precious resource that we must begin to manage as efficiently as possible. In several parts of the country, development is constrained by the lack of good quality water and water infrastructure. Having dealt with the water crisis in the Klamath Basin in 2001, when 1,200 farmers and ranchers had their irrigation water cut off, I can tell you firsthand that the conflicts between competing human and environmental needs are real and are growing.

Benjamin Franklin wrote in Poor Richard's Almanack in 1746, ''When the well is dry, we know the worth of water.'' Well, in parts of the West, the well is quickly running dry. As the Los Angeles Times reported on June 18, 2004, the Western United States may be facing the biggest drought in 500 years. The current effects in the Colorado River Basin are considerably worse than those experienced during the Dust Bowl years of the 1930s. The 10-year drought in the Colorado River Basin has produced the lowest flows on record, straining an important water supply resource for millions of people.

One immediate way to stretch available water supplies, as well as energy resources, is to provide incentives for water and energy efficient appliances. That is why I am introducing a bill to provide tax credits for the manufacture of highly efficient residential clothes washers, dishwashers and refrigerators. The bill builds on the tax credits for energy-efficient appliances pending before the Senate, which—if enacted—will expire in 2007. Under this bill, for the first time, water efficiency is included in the eligibility criteria for the tax credits, and the energy efficiency criteria are higher. This bill provides graduated credits to manufacturers. The more efficient the dishwasher, clothes washer or refrigerator, the higher the credit.

The daily per capita water use around the world varies significantly. The U.N. Population Fund cites that in the United States, we use an estimated 152 gallons per day per person, while in the United Kingdom they use 388 gallons. Africans use 12 gallons a day.

According to the Rocky Mountain Institute, 47 percent of all water supplied to communities in the United States by public and private utilities is for residential water use. Of that, clothes washers account for approximately 22 percent of residential use, while dishwashers account for about 3 percent.

I firmly believe that we can use technology to improve our environmental stewardship. Water efficiency can extend our finite water supplies, and also reduce the amount of wastewater that communities must treat.

High efficiency clothes washers use 20 to 30 gallons per load, compared to the 40 to 45 gallons top-loading machines use. The average annual household water savings is estimated to be 3,500 to 6,000 gallons. Energy savings estimates range from 68 to 70 percent compared to older, standard clothes washers. High efficiency dishwashers use 39 percent less energy to heat the water and 39 percent less water than standard models. Refrigerators must use at least 30 percent less energy than comparably sized models to receive a credit under this bill.

While plumbing fixtures such as toilets, showerheads and faucets must meet U.S. water efficiency standards, water-using appliances are not governed by any water-efficiency standards. We can, however, provide an incentive to lower the cost of these water and energy saving appliances, which are generally more costly to manufacture than standard models.

Mr. President, I would urge my colleagues to join me in cosponsoring this important bill to provide incentives for water and energy efficient residential appliances. I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2655

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 ''Water and Energy Efficient Appliances Act of 2004''.

SEC. 2. CREDIT FOR WATER AND ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45G. WATER AND ENERGY EFFICIENT APPLIANCE CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, the water and energy efficient appliance credit determined under this section for the taxable year is an amount equal to the sum of the amounts determined under paragraph (2) for qualified water and energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

''(2) AMOUNT.—The amount determined under this paragraph for any category described in subsection (b)(2)(B) shall be the product of the applicable amount for appliances in the category and the eligible production for the category.

''(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—For purposes of subsection (a)—

''(1) APPLICABLE AMOUNT.—The applicable amount is—

''(A) $25, in the case of a dishwasher manufactured with an EF of at least 0.65,

''(B) $50, in the case of a dishwasher manufactured with an EF of at least 0.69,

''(C) $75, in the case of a clothes washer which is manufactured with an MEF of at least a 1.80 and a WF of no more than 7.5,

''(D) $100, in the case of a refrigerator which consumes at least 30 percent less kilowatt hours per year than the energy conservation standards for refrigerators promulgated by the Department of Energy and effective on July 1, 2001, and

''(E) $150, in the case of a clothes washer which is manufactured with an MEF of at least a 1.80 and a WF of no more than 5.5.

''(2) ELIGIBLE PRODUCTION.—

''(A) IN GENERAL.—The eligible production of each category of qualified water and energy efficient appliances is the excess of—

''(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

''(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 2002, 2003, and 2004.

''(B) CATEGORIES.—For purposes of subparagraph (A), the categories are—

''(i) dishwashers described in paragraph (1)(A),

''(ii) dishwashers described in paragraph (1)(B),

''(iii) clothes washers described in paragraph (1)(C),

''(iv) clothes washers described in paragraph (1)(E), and

''(v) refrigerators described in paragraph (1)(D).

''(c) LIMITATION ON MAXIMUM CREDIT.—

''(1) IN GENERAL.—The amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall not exceed $65,000,000, of which not more than $15,000,000 may be allowed with respect to the credit determined by using the applicable amount under subsections (b)(1)(A) and (b)(1)(B).

''(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable

year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

''(3) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

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

''(1) QUALIFIED WATER AND ENERGY EFFICIENT APPLIANCE.—The term 'qualified water and energy efficient appliance' means—

''(A) a dishwasher described in subparagraph (A) or (B) or subsection (b)(1),

''(B) a clothes washer described in subparagraph (C) or (E) of subsection (b)(1), or

''(C) a refrigerator described in subparagraph (D) of subsection (b)(1).

''(2) DISHWASHER.—The term 'dishwasher' means a standard residential dishwasher with a capacity of 8 or more place settings plus 6 serving pieces.

''(3) CLOTHES WASHER.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.

''(4) REFRIGERATOR.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

''(5) EF.—The term 'EF' means Energy Factor (as determined by the Secretary of Energy).

''(6) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

''(7) WF.—The term 'WF' means Water Factor (as determined by the Secretary of Energy).

''(e) SPECIAL RULES.—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

''(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).

''(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

''(g) TERMINATION.—This section shall not apply to water and energy efficient appliances produced after December 31, 2010.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the water and energy efficient appliance credit determined under section 45G(a).''.

(c) LIMITATION ON CARRYBACK.—Section 39(d) of such Code (relating to transition rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF WATER AND ENERGY EFFICIENT APPLIANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the water and energy efficient appliance credit determined under section 45G may be carried to a taxable year ending before January 1, 2008.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 45G. Water and energy efficient appliance credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007, in taxable years ending after such date.

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

S. 2656. A bill to establish a National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon; to the Committee on Energy and Natural Resources.

Mr. GRAHAM. Mr. President, in 2013, our nation will celebrate the 500th anniversary of Ponce de Leon's landing on the east coast of Florida. I am pleased to introduce a bill today that establishes a commission to determine how we can best commemorate his discovery of Florida. For a country as young as ours, a Quincentennial is a rare milestone worthy of tribute.

Juan Ponce de Leon landed on the coast of Florida, south of the present-day St. Augustine, in April of 1513. During the Easter holiday, he explored our coasts, visiting the Florida Keys and the west coast of Florida. The first European explorer to step foot on North American soil, Ponce de Leon opened Florida and the mainland of the Americas to the rest of the world. Florida owes its heritage to Ponce de Leon. Even the name Florida dates back to Ponce de Leon's discovery. When he saw the lush terrain, Ponce de Leon named the area the ''land of flowers'' or ''Florida'' in Spanish.

While there is no doubt that Ponce de Leon is a key part of Florida's history, his landing in Florida is ingrained in our entire nation's early history. Children read in their history books about the myths surrounding Ponce de Leon's voyages. His quest for the fountain of youth has become a myth symbolic of the age of exploration.

Other Europeans were encouraged to make the dangerous journey across the Atlantic toward the Americas, persuaded by the stories of Ponce de Leon's explorations of the new lands of Florida. Ultimately, his discovery opened the path for exploration and colonization of the Americas.

I have drafted this bill with the assistance of a notable scholar accomplished in the field of early Florida history—Dr. Samuel Proctor, Distinguished Service Professor Emeritus of History at the University of Florida. I would like to thank Dr. Proctor for all of his efforts in drafting this bill.

Funding authorized by this legislation would support the activities of this commission and would allow for educational activities, ceremonies, and celebrations. Fittingly, the principal office for this operation would be located in St. Augustine, FL.

With the establishment of this commission, my hope is to not only commemorate Ponce de Leon's arrival in Florida but to enhance the American public's knowledge about the impact of Florida's discovery on the history of the United States. I hope that my colleagues will recognize the importance of commemorating this historic event.

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

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

S. 2656

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 ''Ponce de Leon Discovery of Florida Quincentennial Commission Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Quincentennial of the founding of Florida by Ponce de Leon occurs in 2013, 500 years after Ponce de Leon landed on its shores and explored the Keys and the west coast of Florida;

(2) evidence supports the theory that Ponce de Leon was the first European to land on the shores of Florida;

(3) Florida means ''the land of flowers'' and the State owes its name to Ponce de Leon;

(4) Ponce de Leon's quest for the ''fountain of youth'' has become an established legend which has drawn fame and recognition to Florida and the United States;

(5) the discovery of Florida by Ponce de Leon, the myth of the ''fountain of youth'', and the subsequent colonization of Florida encouraged other European countries to explore the New World and to establish settlements in the territory that is currently the United States;

(6) Florida was colonized under 5 flags; and

(7) commemoration of the arrival in Florida of Ponce de Leon and the beginning of the colonization of the Americas would—

(A) enhance public understanding of the impact of the discovery of Florida on the history of the United States; and

(B) provide lessons about the importance of exploration and discovery.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon established under section 4(a).

(2) QUINCENTENNIAL.—The term ''Quincentennial'' means the 500th anniversary of the discovery of Florida by Ponce de Leon.

SEC. 4. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon''.

(b) DUTIES.—The Commission shall plan, encourage, coordinate, and conduct the commemoration of the Quincentennial.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 12 members—

(A) of whom 5 members shall be Republicans and 5 members shall be Democrats, including—

(i) 6 members, of whom 3 members shall be Republicans and 3 members shall be Democrats, appointed by the President;

(ii) 2 members, of whom 1 member shall be a Republican and 1 member shall be a Democrat, appointed by the President, on the recommendation of the Majority Leader and the Minority Leader of the Senate; and

(iii) 2 members, of whom 1 member shall be a Republican and 1 member shall be a Democrat, appointed by the President, on the recommendation of the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives; and

(B) including the Director of the National Park Service and the Secretary of the Smithsonian Institution.

(2) CRITERIA.—A member of the Commission shall be chosen from among individuals that have demonstrated a strong sense of public service, expertise in the appropriate professions, scholarship, and abilities likely to contribute to the fulfillment of the duties of the Commission.

(3) INTERNATIONAL PARTICIPATION.—Not later than 60 days after the date of enactment of this Act, the President shall invite the Government of Spain to appoint 1 individual to serve as a nonvoting member of the Commission.

(4) DATE OF APPOINTMENTS.—Not later than 60 days after the date of enactment of this Act, the members of the Commission described in paragraph (1) shall be appointed.

(d) TERM; VACANCIES.—

(1) TERM.—A member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(e) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(f) MEETINGS.—The Commission shall meet at the call of the co-chairpersons described under subsection (h).

(g) QUORUM.—A quorum of the Commission for decision making purposes shall be 7 members, except that a lesser number of members, as determined by the Commission, may conduct meetings.

(h) CO-CHAIRPERSONS AND VICE CO-CHAIRPERSONS.—

(1) CO-CHAIRPERSONS.—The President shall designate 2 of the members of the Commission, 1 of whom shall be a Republican and 1 of whom shall be a Democrat, to be co-chairpersons of the Commission.

(2) CO-VICE-CHAIRPERSONS.—The Commission shall select 2 co-vice-chairpersons, 1 of whom shall be a Republican and 1 of whom shall be a Democrat, from among the members of the Commission.

SEC. 5. DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) conduct a study regarding the feasibility of creating a National Heritage Area or National Monument to commemorate the discovery of Florida;

(2) plan and develop activities appropriate to commemorate the Quincentennial including a limited number of proposed projects to be undertaken by the appropriate Federal departments and agencies that commemorate the Quincentennial by seeking to harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(3) consult with and encourage appropriate Federal departments and agencies, State and local governments, elementary and secondary schools, colleges and universities, foreign governments, and private organizations to organize and participate in Quincentennial activities commemorating or examining—

(A) the history of Florida;

(B) the discovery of Florida;

(C) the life of Ponce de Leon;

(D) the myths surrounding Ponce de Leon's search for gold and for the ''fountain of youth'';

(E) the exploration of Florida; and

(F) the beginnings of the colonization of North America; and

(4) coordinate activities throughout the United States and internationally that relate to the history and influence of the discovery of Florida.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the President and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a comprehensive report that includes specific recommendations for—

(A) the allocation of financial and administrative responsibility among participating entities and persons with respect to commemoration of the Quincentennial; and

(B) the commemoration of the Quincentennial and related events through programs and activities, including—

(i) the production, publication, and distribution of books, pamphlets, films, electronic publications, and other educational materials focusing on the history and impact of the discovery of Florida on the United States and the world;

(ii) bibliographical and documentary projects, publications, and electronic resources;

(iii) conferences, convocations, lectures, seminars, and other programs;

(iv) the development of programs by and for libraries, museums, parks and historic sites, including international and national traveling exhibitions;

(v) ceremonies and celebrations commemorating specific events;

(vi) the production, distribution, and performance of artistic works, and of programs and activities, focusing on the national and international significance of the discovery of Florida; and

(vii) the issuance of commemorative coins, medals, certificates of recognition, and stamps.

(2) ANNUAL REPORT.—The Commission shall submit an annual report that describes the activities, programs, expenditures, and donations of or received by the Commission to—

(A) the President; and

(B) the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(3) FINAL REPORT.—Not later than December 31, 2013, the Commission shall submit a final report that describes the activities, programs, expenditures, and donations of or received by the Commission to—

(A) the President; and

(B) the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(c) ASSISTANCE.—In carrying out this Act, the Commission shall consult, cooperate with, and seek advice and assistance from appropriate Federal departments and agencies, including the Department of the Interior.

SEC. 6. POWERS OF THE COMMISSION.

(a) IN GENERAL.—The Commission may provide for—

(1) the preparation, distribution, dissemination, exhibition, and sale of historical, commemorative, and informational materials and objects that will contribute to public awareness of, and interest in, the Quincentennial, except that any commemorative coin, medal, or postage stamp recommended to be issued by the United States shall be sold only by a Federal department or agency;

(2) competitions and awards for historical, scholarly, artistic, literary, musical, and other works, programs, and projects relating to the Quincentennial;

(3) a Quincentennial calendar or register of programs and projects;

(4) a central clearinghouse for information and coordination regarding dates, events, places, documents, artifacts, and personalities of Quincentennial historical and commemorative significance; and

(5) the design and designation of logos, symbols, or marks for use in connection with the commemoration of the Quincentennial and shall establish procedures regarding their use.

(b) ADVISORY COMMITTEE.—The Commission may appoint such advisory committees as the Commission determines necessary to carry out the purposes of this Act.

SEC. 7. ADMINISTRATION.

(a) LOCATION OF OFFICE.—

(1) PRINCIPAL OFFICE.—The principal office of the Commission shall be in St. Augustine, Florida.

(2) SATELLITE OFFICE.—The Commission may establish a satellite office in Washington, D.C.

(b) STAFF.—

(1) APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR.—

(A) IN GENERAL.—The co-chairpersons, with the advice of the Commission, may appoint and terminate a director and deputy director without regard to the civil service laws (including regulations).

(B) DELEGATION TO DIRECTOR.—The Commission may delegate such powers and duties to the director as may be necessary for the efficient operation and management of the Commission.

(2) STAFF PAID FROM FEDERAL FUNDS.—The Commission may use any available Federal funds to appoint and fix the compensation of not more than 4 additional personnel staff members, as the Commission determines necessary.

(3) STAFF PAID FROM NON-FEDERAL FUNDS.—The Commission may use any available non-Federal funds to appoint and fix the compensation of additional personnel.

(4) COMPENSATION.—

(A) MEMBERS.—

(i) IN GENERAL.—A member of the Commission shall serve without compensation.

(ii) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(B) STAFF.—

(i) IN GENERAL.—The co-chairpersons of the Commission may fix the compensation of the director, deputy director, and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) MAXIMUM RATE OF PAY.—

(I) DIRECTOR.—The rate of pay for the director shall not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(II) DEPUTY DIRECTOR.—The rate of pay for the deputy director shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(III) STAFF MEMBERS.—The rate of pay for staff members appointed under paragraph (2) shall not exceed the rate payable for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code.

(c) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(1) IN GENERAL.—On request of the Commission, the head of any Federal agency or department may detail any of the personnel of the agency or department to the Commission to assist the Commission in carrying out this Act.

(2) REIMBURSEMENT.—A detail of personnel under this subsection shall be without reimbursement by the Commission to the agency from which the employee was detailed.

(3) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(d) OTHER REVENUES AND EXPENDITURES.—

(1) IN GENERAL.—The Commission may procure supplies, services, and property, enter into contracts, and expend funds appropriated, donated, or received to carry out contracts.

(2) DONATIONS.—

(A) IN GENERAL.—The Commission may solicit, accept, use, and dispose of donations of money, property, or personal services.

(B) LIMITATIONS.—Subject to subparagraph (C), the Commission shall not accept donations—

(i) the value of which exceeds $50,000 annually, in the case of donations from an individual; or

(ii) the value of which exceeds $250,000 annually, in the case of donations from a person other than an individual.

(C) NONPROFIT ORGANIZATION.—The limitations in subparagraph (B) shall not apply in the case of an organization that is—

(i) described in section 501(c)(3) of the Internal Revenue Code of 1986; and

(ii) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

(3) ACQUIRED ITEMS.—Any book, manuscript, miscellaneous printed matter, memorabilia, relic, and other material or property relating to the time period of the discovery of Florida acquired by the Commission may be deposited for preservation in national, State, or local libraries, museums, archives, or other agencies with the consent of the depositary institution.

(e) POSTAL SERVICES.—The Commission may use the United States mail to carry out this Act in the same manner and under the same conditions as other agencies of the Federal Government.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated to carry out the purposes of this Act such sums as may be necessary for each of fiscal years 2005 through 2013.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under this section for any fiscal year shall remain available until December 31, 2013.

SEC. 9. TERMINATION OF AUTHORITY.

The authority provided by this Act terminates effective December 31, 2013.

By Ms. COLLINS (for herself and Mr. AKAKA):

S. 2657. A bill to amend part III of title 5, United States Code, to provide for the establishment of programs under which supplemental dental and vision benefits are made available to Federal employees, retirees, and their dependents, to expand the contracting authority of the Office of Personnel Management, and for other purposes; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President. I am pleased today to introduce legislation with my friend and colleague, Senator AKAKA, that would give Federal employees, retirees, and their families greater access to comprehensive dental and vision insurance coverage. The Federal Employee Dental and Vision Benefits Enhancement Act of 2004 would establish a voluntary program under which Federal employees and annuitants may purchase dental and vision coverage. The legislation grants the Office of Personnel Management (OPM) the authority to select the appropriate combination of nationwide and regional companies and a variety of benefit packages to meet the diverse needs of our Federal employee and annuitant population.

The National Institute of Dental and Craniofacial Research estimates that for every dollar spent on dental disease prevention, $4 is saved in subsequent treatment costs. Improved access to dental and vision care is an essential component of any comprehensive health care strategy. Federal employees need and deserve increased access to dental and vision benefits.

Today, the Federal community has access to excellent medical coverage through the Federal Employees Health Benefits Program (FEHB). Unfortunately, the program provides reimbursement for only a small fraction of dental care. Customer surveys indicate that FEHB enrollees want more comprehensive dental and vision benefits than those that are currently being provided in the FEHB program. The increasing demand for dental and vision benefits has prompted Senator AKAKA and me to pursue legislation that would offer separate and improved coverage for Federal employees, retirees, and their families.

The stand-alone model contained in my legislation preserves the integrity of the FEHB while encouraging the purchase of additional dental and vision coverage. It is important to note that nothing in my legislation prevents the existing medical carriers from continuing to offer dental and vision coverage under the FEHBP. Further, nothing in the legislation precludes current FEHBP carriers from participating in the competitive process to offer benefits under the new voluntary dental and vision programs. The legislation simply provides a mechanism for dental and vision companies to participate in the Federal employee benefits arena.

In recognition of the enormous fiscal pressures faced by the Federal Government, the legislation is designed to provide an employee-paid dental and vision benefit, patterned after the Federal Employees Long-Term Care Insurance Program. By leveraging the purchasing power of the Federal Government, combined with market-driven competition, OPM would have the ability to provide access to more comprehensive dental and vision coverage to employees and retirees at no cost to the Federal Government. Federal employees would have the confidence that OPM has given its seal of approval to the benefit packages provided under the voluntary programs.

The legislation recognizes the geographic dispersion of the Federal workforce and the need for greater access to care through local dental and eye health professionals by requiring companies to provide coverage in underserved areas. For example, companies selected to provide coverage to a particular region would be required to develop and maintain provider networks in all States, including States where access to care may be less available.

While the legislation lists general categories of benefits that may be offered under the new programs, the statutory model is flexible to ensure that the benefit packages can be modified over time to incorporate future advances in dental and vision products, therapies, and technologies.

Employees look to their employer to provide education about their benefits. For this reason, the legislation requires OPM to make available the educational tools necessary so that Federal employees have a clear understanding of the choices available to them. Employees will have access to information on how the voluntary plans can supplement the existing, though limited, coverage offered by their medical plan under the FEHBP, to meet their individual needs for care. OPM would also educate employees about the value of their existing Flexible Spending Accounts to help cover out-of-pocket dental and vision expenses. These options can help Federal employees and annuitants get the best value for their premium dollar.

Administration by OPM would ensure that each contract is awarded on the basis of quality and price, and that the companies understand and adapt to the needs of Federal employees, retirees, and their families. Additionally, OPM would provide participants access to a process to appeal adverse benefit determinations. Premiums can be made through payroll or annuity deductions, direct payments to the participating companies, or both. The plans would be open to all Federal civilian employees and annuitants, regardless of whether they currently participate in the FEHBP.

As with the Long-Term Care Insurance Program, our measure for the success of the dental and vision programs would be the extent to which Federal employees purchase these benefits.

My colleagues and I have recognized, through our support of legislation to assist the Federal Government with its recruitment and retention efforts, that the Federal Government's most important asset is its human capital. Employees of 48 State governments offer or provide access to dental benefit plans to employees. Surveys indicate that 95 percent of employers with 500 or more employees provide dental insurance. The opportunity to purchase enhanced dental and vision coverage will help the government with its ongoing efforts to recruit and retain a highly qualified workforce.

The legislation is supported by the American Federation of Government Employees, the National Treasury Employees Union, the National Association of Dental Plans, and the American Optometric Association. I hope my colleagues will join me in providing our

Federal employee community with greater access to dental and vision coverage.

By Mr. DOMENICI (for himself, Mrs. FEINSTEIN, Mr. CRAIG, Mr. BINGAMAN, and Mr. DURBIN):

S. 2658. A bill to establish a Department of Energy National Laboratories water technology research and development program, and for other purposes; to the Committee on Environment and Public Works.

Mr. DOMENICI. Mr. President. There is no more important or essential substance to us than water. It is the source from which life springs. It also has the potential to be the source of incredible conflict ranging from local to international levels. Fresh water supplies are coming under pressure all over the globe. By mid-century, over half of the world's population will face severe water shortages. These shortages go beyond drinking water; particularly important is the nexus of water and energy production—another flash point in global affairs. Seriously confronting this problem before it leads to tremendous burdens on this nation and the world is an endeavor as worthwhile as any I can contemplate.

Research and development in this area has long been without concerted national attention. Water and water rights have traditionally been under the purview of the States, and rightly so. But few States have the capacity and funding to adequately address this problem. Users of water resources are highly risk averse and can ill afford to take chances on unproven technology. At the Federal level, at least seventeen agencies do water research, however only three currently engage in water supply augmentation research—the Department of Agriculture, the Bureau of Reclamation, and the Department of Energy. According to the National Research Council's June 17, 2004 report entitled ''Confronting the Nation's Water Problems: The Role of Research,'' the total Federal investment in water resources research in 2000 dollars has been level at $700m since 1967. The Federal investment in 2000 was 5 percent less than the investment in 1973 in indexed dollars. The total Federal water research investment of $700m represents about 0.5 percent of the Federal research budget—for the most fundamental resource need. Investment in Water supply augmentation research funding has declined from $160m in 1970 to $14m in 2000.

These circumstances have led to neglect in long-term, cutting edge, commercially viable research and development. This is ultimately untenable. We know what is possible, we have acted successfully before. Federal investment in the 1960's and 1970's is the basis for existing desalination technology that substantially expanded U.S. and world wide water supplies. We know that a similar investment can again achieve such results. Thus, the lack of Federal investment is unacceptable given our prior experiences and our complete and utter dependence on this resource.

Our nation's efforts to address these problems must be fought on multiple fronts. We must provide for development and maintenance of water infrastructure, particularly in rural areas. This is the infrastructure that sustains our lives and livelihoods. We must make our management of this precious resource more rational. We must make a concerted effort to more fully understand and extend the limits of our fresh and lower quality water. We must coordinate and enhance our technology to address both water quality and quantity. We cannot fight all these fronts with one effort, but we can begin to address aspects of the problem.

To that end, I introduce today the Department of Energy National Laboratories Water Research and Development Act of 2004. This admittedly ambitious bill authorizes a substantial Federal investment of up to $200 million per year for basic and applied research and development in water supply technologies. The emphasis of this program is developing and deploying new and affordable technology to improve water quantity and quality. Its primary goal is to facilitate and guide research, development, and deployment of affordable and cutting edge technology that increases the quantity and quality of water available for multiple uses. This will be done across the Nation, in a wide range of hydrogeographies and water situations.

The effort combines the expertise and resources of our great National Laboratories and universities across the country. The Program builds on the immense investment in new technology and basic science within the labs and universities and directs it toward this critical human need. It will also compliment and strengthen the many programs and efforts underway at Federal agencies and non-governmental organizations.

The Act authorizes the Department of Energy, through the National Laboratories, to partner with universities in specified regions to work on technology for particularized areas of research. Each region will be tasked with addressing a given range of issues. These include brine removal and inland desalination to re-use and conservation technology. Furthermore, the water and energy nexus will be fully explored. Pressures created by water needed to supply energy and energy necessary to produce usable water have not, to date, been sufficiently addressed.

A grant program will be created to augment existing efforts by non-program members. Many Federal agencies and non-governmental entities have ongoing projects in this arena including the Bureau of Reclamation (''BOR''), the Department of Agriculture (''USDA''), the Department of Defense (''DOD'') (through the Office of Naval Research), the Environmental Protection Agency (''EPA''), and NASA. Additionally, the Program fully incorporates public-private partnerships such as those already working with the American Water Resources Research Foundation, the WateReuse Foundation and many others.

Finally, this bill creates a National Water Supply Law and Policy Institute. The Policy Center's responsibilities include identifying intervention points where technological development may help alleviate real and potential water supply problems. The Policy Institute will act as a clearinghouse for relevant information on regulations, laws and codes—from municipal to national scales focused on helping to overcome obstacles of new technology that can expand water supplies.

The Program will be administered by a Program Coordinator appointed by the Secretary of Energy. The Coordinator will administer the program from facilities located at Sandia National Laboratory, our Nation's best applied engineering lab. Acting as the coordinating institution, Sandia is responsible for technology development road-mapping and assisting the Regional Centers in transferring their creations from bench-scale to commercialization. Sandia is also charged with guiding the Policy Center.

The conditions are present to necessitate the Federal government taking a lead role. We must act now. The costs of inaction will be borne by all of us. The market is skewed against development. It is a matter of personal and national security. It is a matter of human necessity. It is a matter of time.

The need is great. The goal is good. Let us begin.

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

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

S. 2658

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 ''Department of Energy National Laboratories Water Technology Research and Development Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to establish within the Department of Energy a program for research on and the development of economically viable technologies that would—

(1) substantially improve access to existing water resources;

(2) promote improved access to untapped water resources;

(3) facilitate the widespread commercialization of newly developed water supply technologies for use in real-world applications;

(4) provide objective analyses of, and propose changes to, current water supply laws and policies relating to the implementation and acceptance of new water supply technologies developed under the program; and

(5) facilitate collaboration among Federal agencies in the conduct of research under this Act and otherwise provide for the integration of research on, and disclosure of information relating to, water supply technologies.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADVISORY PANEL.—The term ''Advisory Panel'' means the National Water Supply Technology Advisory Panel established under section 5(a).

(2) INSTITUTE.—The term ''Institute'' means the National Water Supply Law and Policy Institute designated by section 8(a).

(3) PROGRAM.—The term ''program'' means the National Laboratories water technology research and development program established under section 4(a).

(4) PROGRAM COORDINATOR.—The term ''Program Coordinator'' means the individual appointed to administer the program under section 4(c).

(5) REGIONAL CENTER.—The term ''Regional Center'' means a Regional Center designated under subsection (b) or (e) of section 6.

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

(7) WATER SUPPLY TECHNOLOGY.—The term ''water supply technology'' means a technology that is designed to improve water quality, make more efficient use of existing water resources, or develop potential water resources, including technologies for—

(A) reducing water consumption in the production or generation of energy;

(B) desalination and related concentrate disposal;

(C) water reuse;

(D) contaminant removal, such as toxics identified by the Environmental Portection Agency and new and emerging contaminants (including perchlorate and nitrates);

(E) agriculture, industrial, and municipal efficiency; and

(F) water monitoring and systems analysis.

SEC. 4. NATIONAL LABORATORIES WATER TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a National Laboratories water technology research and development program for research on, and the development and commercialization of, water supply technologies.

(b) PROGRAM LEAD LABORATORY.—The program shall be carried out by the National Laboratories, with Sandia National Laboratory designated as the lead laboratory for the program.

(c) PROGRAM COORDINATOR.—

(1) IN GENERAL.—The Secretary shall appoint an individual at Sandia National Laboratory as the Program Coordinator to administer the program.

(2) DUTIES.—In carrying out the program, the Program Coordinator shall—

(A) establish budgetary and contracting procedures for the program;

(B) perform administrative duties relating to the program;

(C) provide grants under section 7;

(D) conduct peer review of water supply technology proposals and research results;

(E) establish procedures to determine which water supply technologies would most improve water quality, make the most efficient use of existing water resources, and provide optimum development of potential water resources.

(F) coordinate budgets for water supply technology research at Regional Centers;

(G) coordinate research carried out under the program, including research carried out by Regional Centers;

(H) perform annual evaluations of research progress made by grant recipients and Regional Centers;

(I) establish a water supply technology transfer program to identify, and facilitate commercialization of, promising water supply technologies, including construction and implementation of demonstration facilities, partnerships with industry consortia, and collaboration with other Federal programs;

(J) establish procedures and criteria for the Advisory Panel to use in reviewing Regional Center performance;

(K) widely distribute information on the program, including through research conferences; and

(L) implement cross-cutting research to develop sensor and monitoring systems for water and energy efficiency and management.

SEC. 5. NATIONAL WATER SUPPLY TECHNOLOGY ADVISORY PANEL.

(a) ESTABLISHMENT.—The Secretary shall establish an advisory panel, to be known as the ''National Water Supply Technology Advisory Panel'', to advise the Program Coordinator on the direction of the program and facilitating the commercialization of the water supply technologies developed under the program.

(b) MEMBERSHIP.—Members of the Advisory Panel shall—

(1) have expertise in water supply technology; and

(2) be representative of educational institutions, industry, States, local government, international water technology institutions, other Federal agencies, and nongovernmental organizations.

(c) ASSESSMENT RESPONSIBILITIES.—In addition to other responsibilities, the Advisory Panel shall—

(1) periodically assess the performance of the National Laboratories and universities designated as Regional Centers under section 6; and

(2) make recommendations to the Secretary for renewing the designation of Regional Centers.

SEC. 6. REGIONAL CENTERS.

(a) IN GENERAL.—A Regional Center shall—

(1) consist of 1 National Laboratory designated under subsection (b) or (e), acting in partnership with 1 or more universities selected under subsection (c); and

(2) be eligible for a grant under section 7(a) for the conduct of research on the specific water supply technologies identified under subsection (b) or (e).

(b) INITIAL REGIONAL CENTERS.—There are designated as Regional Centers—

(1) the Northeast Regional Center, consisting of the Brookhaven National Laboratory and any university partners selected under subsection (c), which shall conduct research on reducing water quality impacts from power plant outfall and decentralized (soft-path) water treatment;

(2) the Central Atlantic Regional Center, consisting of the National Energy Technology Laboratory and any university partners selected under subsection (c), which shall conduct research on produced water purification and use for power production and water reuse for large cities;

(3) the Southeast Regional Center, consisting of the Oak Ridge National Laboratory and any university partners selected under subsection (c), which shall conduct research on—

(A) shallow aquifer conjunctive water use;

(B) energy reduction for sea water desalination; and

(C) membrane technology development.

(4) the Midwest Regional Center, consisting of the Argonne National Laboratory and any university partners selected under subsection (c), which shall conduct research on—

(A) water efficiency in manufacturing; and

(B) energy reduction in wastewater treatment;

(5) the Central Regional Center, consisting of the Idaho National Engineering and Environmental Laboratory and any university partners selected under subsection (c), which shall conduct research on—

(A) cogeneration of nuclear power and water;

(B) energy systems for pumping irrigation; and

(C) watershed management;

(6) the West Regional Center, consisting of the Pacific Northwest National Laboratory and any university partners selected under subsection (c), which shall conduct research on conjunctive management of hydropower and mining water reuse, including separations processes;

(7) the Southwest Regional Center, consisting of the Los Alamos National Laboratory and any university partners selected under subsection (c), which shall conduct research on—

(A) water for power production in arid environments;

(B) energy reduction and waste disposal for brackish desalination;

(C) high water and energy efficiency in arid agriculture; and

(D) transboundary water management; and

(8) the Pacific Regional Center, consisting of the Lawrence Livermore National Laboratory and any university partners selected under subsection (c), which shall conduct research on—

(A) point of use technology, water treatment, and conveyance energy reduction;

(B) co-located energy production and water treatment; and

(C) water reuse for agriculture.

(c) SELECTION OF UNIVERSITY PARTNERS.—Not later than 180 days after the date on which a National Laboratory is designated under subsection (b) or (e), each National Laboratory, in consultation with the Program Coordinator and the Advisory Panel, shall select a primary university partner and may nominate additional university partners.

(d) OPERATIONAL PROCEDURES.—Not later than 1 year after the date of enactment of this Act, a Regional Center designated by subsection (b) shall submit to the Program Coordinator operational procedures for the Regional Center.

(e) ADDITIONAL REGIONAL CENTERS.—Subject to approval by the Advisory Panel, the Program Coordinator may, not sooner than 5 years after the date of enactment of this Act, designate not more than 4 additional Regional Centers if the Program Coordinator determines that there are additional water supply technologies that need to be researched.

(f) PERIOD OF DESIGNATION.—

(1) IN GENERAL.—A designation by subsection (b) or under subsection (c) shall be for a period of 5 years.

(2) ASSESSMENT.—A Regional Center shall be subject to periodic assessments by the Program Coordinator in accordance with procedures and criteria established under section 4(b)(2)(K)(i).

(3) RENEWAL.—After the initial period under paragraph (1), a designation may be renewed for subsequent 5-year periods by the Program Coordinator in accordance with procedures and criteria established under section 4(b)(2)(K)(ii).

(4) TERMINATION OR NONRENEWAL.—

(A) IN GENERAL.—Based on a periodic assessment conducted under paragraph (2), in accordance with the procedures and criteria established under section 4(b)(2)(K)(iii), and after review by the Advisory Panel, the Program Coordinator may recommend that the Secretary terminate or determine not to renew the designation of a Regional Center.

(B) TERMINATION.—Following a recommendation for termination or nonrenewal by the Program Coordinator, the Secretary

may terminate or choose not to renew the designation of a Regional Center.

(g) EXECUTIVE DIRECTOR.—A Regional Center shall be administered by an executive director, subject to approval by the Program Coordinator.

(h) PUBLICATION OF RESEARCH RESULTS.—A Regional Center shall periodically publish the results of any research carried out under the program in appropriate peer-reviewed journals.

SEC. 7. PROGRAM GRANTS.

(a) BLOCK GRANTS TO REGIONAL CENTERS.—

(1) IN GENERAL.—The Program Coordinator shall, subject to the availability of appropriations, provide a block grant to a Regional Center for the conduct of research in the specific area identified for the Research Center under section 6(b).

(2) DISTRIBUTION.—Of the amounts made available to a Regional Center under paragraph (1), 50 percent shall be distributed to the university partners selected under section 6(c), in accordance with the operational procedures for the Regional Center developed under section 6(d).

(3) COST-SHARING REQUIREMENT.—A National Laboratory or university partner that receives a grant provided under this subsection shall not be subject to a cost-sharing requirement.

(b) GRANTS TO COLLABORATIVE INSTITUTIONS.—

(1) IN GENERAL.—The Program Coordinator shall provide competitive grants to eligible collaborative institutions for water supply technology research, development, and demonstration projects.

(2) ELIGIBLE COLLABORATIVE INSTITUTIONS.—The following are eligible for grants under paragraph (1):

(A) Nongovernmental organizations.

(B) National Laboratories.

(C) Private corporations.

(D) Industry consortia.

(E) Universities or university consortia.

(F) International research consortia.

(G) Any other entity with expertise in the conduct of research on water supply technologies.

(3) DISTRIBUTION.—Of the amounts made available for grants under paragraph (1)—

(A) not less than 15 percent or more than 25 percent shall be provided as block grants to nongovernmental organizations, which may be redistributed by the nongovernmental organization to individual projects;

(B) not less than 20 percent or more than 30 percent shall be provided to National Laboratories;

(C) not less than 15 percent or more than 25 percent shall be provided to support individual projects that are recommended by at least 1 other Federal Agency; and

(D) any amounts remaining after the distributions under subparagraphs (A) through (C) may be provided to support individual projects, as the Program Coordinator determines to be appropriate.

(4) COST-SHARING REQUIREMENTS.—

(A) GRANTS TO NONGOVERNMENTAL ORGANIZATIONS AND INDIVIDUAL PROJECTS.—The non-Federal share of the total cost of any project assisted under subparagraphs (A) or (C) of paragraph (3) shall be 50 percent.

(B) GRANTS TO NATIONAL LABORATORIES.—A National Laboratory that receives a grant under paragraph (3)(B) shall not be subject to a cost-sharing requirement.

(C) GRANTS TO OTHER ENTITIES.—The non-Federal share of the total cost of any project assisted under paragraph (3)(D) shall be 25 percent.

(5) TERM OF GRANT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a grant provided under paragraph (1) shall be for a term of 2 years.

(B) RENEWAL.—The Program Coordinator may renew a grant for up to 2 additional years as the Program Coordinator determines to be appropriate.

(6) TREATMENT OF FUNDS.—Amounts received under a grant provided to a non-Federal entity under this subsection shall be considered to be non-Federal funds when used as matching funds by the non-Federal entity toward a Federal cost-shared project conducted under another program.

(7) CRITERIA.—The Program Coordinator shall establish criteria for the submission and review of grant applications and the provision of grants under paragraph (1).

SEC. 8. NATIONAL WATER SUPPLY LAW AND POLICY INSTITUTE.

(a) DESIGNATION.—The Utton Center at the University of New Mexico Law School is designated as the National Water Supply Law and Policy Institute.

(b) DUTIES.—The Institute shall—

(1) establish a database of existing water laws, regulations, and policy;

(2) provide legal, regulatory, and policy alternatives to increase national and international water supplies;

(3) consult with the Regional Centers, other participants in the program (including States), and other interested persons, on water law and policy and the effect of that policy on the development and commercialization of water supply technologies; and

(4) conduct an annual water law and policy seminar to provide information on research carried out or funded by the Institute.

(c) PARTNERSHIPS.—The Institute may enter into partnerships with other institutions to assist in carrying out the duties of the Institute under subsection (b).

(d) EXECUTIVE DIRECTOR.—The Institute shall be administered by an executive director, to be appointed by the dean of the University of New Mexico Law School, in consultation with the Program Coordinator.

SEC. 9. REPORTS.

(a) REPORTS TO PROGRAM COORDINATOR.—Any Regional Center, National Laboratory, or collaborative institution that receives a grant under section 7 shall submit to the Program Coordinator an annual report on activities carried out using amounts made available under this Act during the preceding fiscal year.

(b) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act and each year thereafter, the Program Coordinator shall submit to the Secretary and Congress a report that describes the activities carried out under this Act.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary for fiscal year 2005 and each subsequent fiscal year—

(1) for the administration of the program by the Program Coordinator and the construction of any necessary program facilities, $25,000,000; and

(2) for research and development carried out under the program, $200,000,000.

(b) ALLOCATION.—Of amounts made available under subsection (a)(2) for a fiscal year—

(1) at least 15 percent shall be made available for the water supply technology transfer program established under section 4(b)(2)(I);

(2) the lesser of $10,000,000 or 5 percent shall be made available for grants under section 7(a);

(3) at least 30 percent shall be made available for grants to collaborative institutions under section 7(b); and

(4) the lesser of $10,000,000 or 5 percent shall be made available for the Institute.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 405—HONORING FORMER PRESIDENT GERALD R. FORD ON THE OCCASION OF HIS 91ST BIRTHDAY AND EXTENDING THE BEST WISHES OF THE SENATE TO FORMER PRESIDENT FORD AND HIS FAMILY

Ms. STABENOW (for herself, Mr. LEVIN, and Mr. HATCH) submitted the following resolution; which was considered and agreed to:

S. RES. 405

Whereas Gerald Rudolph Ford was born on July 14, 1913;

Whereas Gerald R. Ford is the only person from the State of Michigan to have served as President of the United States;

Whereas Gerald R. Ford graduated from the University of Michigan where he was a star center on the football team and later turned down offers to play in the National Football League;

Whereas Gerald R. Ford attended Yale University Law School and graduated in the top 25 percent of his class while also working as a football coach;

Whereas in 1942, Gerald R. Ford joined the United States Navy Reserves and served valiantly on the U.S.S. Monterey in the Philippines during World War II, surviving a heavy storm during which he came within inches of being swept overboard;

Whereas the U.S.S. Monterey earned 10 battle stars, awarded for participation in battle, while Gerald R. Ford served on the ship;

Whereas Gerald R. Ford was released to inactive duty in 1946 with the rank of Lieutenant Commander;

Whereas in 1948, Gerald R. Ford was elected to the House of Representatives where he served with integrity for 25 years;

Whereas in 1963, President Lyndon Johnson appointed Gerald R. Ford to the Warren Commission investigating the assassination of President John F. Kennedy;

Whereas from 1965 to 1973, Gerald R. Ford served as minority leader of the House of Representatives;

Whereas from 1974 to 1976, Gerald R. Ford served as the 38th President of the United States, taking office at a dark hour in the history of the United States and restoring the faith of the people of the United States in the Presidency through his wisdom, courage, and integrity;

Whereas in 1975, the United States signed the Final Act of the Conference on Security and Cooperation in Europe, commonly known as the ''Helsinki Agreement'', which ratified post-World War II European borders and supported human rights;

Whereas since leaving the Presidency, Gerald R. Ford has been an international ambassador of American goodwill, a noted scholar and lecturer, and a strong supporter of the Gerald R. Ford School of Public Policy at the University of Michigan, which was named for the former President in 1999;

Whereas Gerald R. Ford was awarded the Congressional Gold Medal in 1999; and

Whereas on July 14, 2004, Gerald R. Ford will celebrate his 91st birthday: Now, therefore, be it

Resolved, That the Senate honors former President Gerald R. Ford on the occasion of his 91st birthday and extends its congratulations and best wishes to former President Ford and his family.