Congressional Record

United States of America

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, MONDAY, JANUARY 24, 2005 No. 4

House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, January 25, 2005, at 2 p.m.

Senate

MONDAY, JANUARY 24, 2005

The Senate met at 2:01 p.m. and was called to order by the Honorable LAMAR ALEXANDER, a Senator from the State of Tennessee.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord, You have been our dwelling place in all generations. You laid the Earth’s foundation on the seas and built it on the ocean depths. Each day we receive the showers of Your blessings.

Thank You for listening to our prayers and for keeping us safe. Thank You for giving us hope, even when life seems covered by shadows. From our earliest moments, we have been blessed by Your marvelous deeds. So we celebrate Your goodness.

Continue to sustain our legislators. Give them wisdom and courage to do their duty. Keep their hands and hearts pure. Teach them to do the right thing, to be honest and fair. Keep them humble and help them to trust You completely now and always.

Lord, continue to protect our Nation’s military. We pray in Your Holy Name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 24, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LAMAR ALEXANDER, a Senator from the State of Tennessee, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. ALEXANDER thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

Mr. FRIST. Mr. President, this afternoon, we will be in a period for morning business so Senators may introduce legislation and make statements. Following that 1 hour period, the Senate will proceed to executive session for the consideration of the nomination of Carlos Gutierrez to be Secretary of Commerce. Chairman STEVENS will be here to manage the hour of debate on this side of the aisle, and I understand Senator DORGAN will control the remaining 1 hour. We do not have a request for a rollcall vote on the nomination. Therefore, we will proceed to a voice vote at the expiration of that time. Consequently, we will not have any rollcall votes today.

I do want to take this opportunity to remind my colleagues that we will begin debate on the nomination of Condoleezza Rice during tomorrow’s session. The order from last week provides for debate on Tuesday with closing remarks on Wednesday and a vote on that nomination on Wednesday morning.

There are several other Cabinet-level nominations that may be ready for floor action this week, including the nominations of the Secretary of Energy, the Secretary of Health and Human Services, and the Attorney General. I will be talking with the Democratic leader about the full Senate consideration of those Cabinet positions as they become available.

RELATING TO THE DEATH OF HOWARD S. LIEBENGOOD

Mr. FRIST. Mr. President, I am now turning to a resolution for a very close friend, and then I will take a few moments to comment on this resolution, really the man behind this resolution. I send a resolution to the desk and ask for its immediate consideration.

SCHEDULE

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

The assistant legislative clerk read as follows:

PLEDGE OF ALLEGIANCE

The Honorable LAMAR ALEXANDER led the Pledge of Allegiance, as follows:

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

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

S107

Printed on recycled paper.
A resolution (S. Res. 7) relating to the death of Howard S. Liebengood, former Sergeant at Arms of the Senate.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDENT. Without objection, it is so ordered.

The resolution (S. Res. 7) was agreed to.

Mr. FRIST. Mr. President, I ask the Clerk to read the resolution, the preamble, and the motion to reconsider as agreed to.

The Clerk read as follows:

S. Res. 7

Whereas Howard S. Liebengood served as a captain in the United States Army Military Police Corps in Vietnam from 1968 to 1970, receiving the Bronze Star and the Army Commendation Medal for his exemplary service;

Whereas Howard S. Liebengood began his service to the Senate in 1973 as minority counsel to the Senate Watergate Committee;

Whereas Howard S. Liebengood served as an aide to the Senate Church Committee in 1975, staff director of the Senate Select Committee on Intelligence in 1976, and as legislative counsel to Senate Majority Leader Howard H. Baker, Jr., in 1980;

Whereas Howard S. Liebengood served as Sergeant at Arms of the Senate from 1981 to 1983;

Whereas Howard S. Liebengood served as chief of staff to Senator Fred Thompson from 2001 to 2003, and as chief of staff to Senate Majority Leader William H. Frist, M.D., from 2003 until his death in January, 2005;

Whereas Howard S. Liebengood was a caring and devoted husband, father, and colleague who served with the utmost humility and distinction and was admired and respected by all as a teacher, adviser, and friend; and

Whereas Howard S. Liebengood inspired others through his personal leadership, generosity, and great love for the United States: Now, therefore, be it

Resolved, That—

(1) the Senate has heard with profound sorrow and deep regret the announcement of the death of Howard S. Liebengood; and

(2) the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy of these resolutions to the family of Howard S. Liebengood.

Mr. FRIST. Mr. President, Howard Liebengood loved the Senate. He loved the purpose of this institution; he loved its tradition; and, above all, he loved its people. The Senate was his extended family, and we all are going to miss him very much.

Howard Schuler Liebengood passed away Thursday, January 13, at his home in Scott County in Huntsville. He was just 2 weeks shy of his retirement. He had planned to travel and cook and devote the May, without exception, Howard went to the Indy 500 with his family.

Howard lived with passion. He lived with conviction. He lived with generosity. He lived with grace. He accomplished so much because he loved life so well.

Howard was born on December 29, 1942, in South Bend, IN. Franklin Delano Roosevelt was President, stamps cost 3 cents, and total Federal spending was a mere $35 billion.

Howard graduated from Plymouth High in 1960 and earned his bachelor's degree in political science at Kansas State University. From there he went to Vanderbilt University Law School where he met a young man who would become his closest and lifelong friend and future U.S. Senator, Fred Thompson. Howard once described the two of them as misfits among the well-heeled southern scholars and Ivy League stars. But knowing them both, I suspect Howard's characteristic midwestern modesty.

After earning his law degree from Vanderbilt, Howard served as an Army captain in the Vietnam war. His bravery and valor earned him the Bronze Star and the Army Commendation Medal.

Upon his return from Vietnam in 1970, Howard applied for and won the competition to be assistant general manager and play-by-play announcer for the Kansas City Royals AAA farm club. But it was not to be. A young wife and the prospect of a future family led him to the offices of Manier, White in Nashville, TN, where he practiced criminal and entertainment law.

Then, just as he was to become partner, he got a call. Fred was minority counsel to the newly formed Senate Watergate Committee, and he wanted Howard at his side. It was 1973, the height of Watergate. Senator Howard Baker of Tennessee was vice chair of the committee. It was an offer too good to refuse.

Howard soon found himself in the center of the Watergate whirlwind, interviewing witnesses and ultimately coauthoring the Baker report.

It was a heady experience for the young lawyer and launched him on a 30-year career in politics. And yet somehow, despite this long and intimate exposure to Washington politics, Howard never lost his optimism. He never became cynical. He always looked for the good in any situation, never became cynical. He always let them the excitement and honor of working in Government. He always let them know, interns and staff alike, that their jobs mattered, that their jobs had a purpose, that they were serving their fellow citizens and advancing the cause of democracy.

Howard also reached across the aisle. He was known as the peacemaker for his ability to bring opposing sides together. Indeed, one of his great regrets was what he saw to be the growing partisanship in politics.

He missed the days when Members could set aside their party labels and share a 6 o'clock cocktail or a Friday night dinner. When he was legislative counsel for Senator Baker, what is now the ball conference room and the leader's office, it was called the "back room." It featured not a conference table but a sofa, a coffee table, two wingback chairs, and over at the end a wet bar.

Howard would host visits that began late in the afternoon and could last well into the evening. The regulars included Mac Mathias, Barry Goldwater—they tell me, two fingers of bourbon, no ice—PETE DOMENICI, and JOE BAKI. Baker, who is now the Senate majority leader, has brought along Elizabeth Taylor Warner.

Two curious facts about the jovial and mild-mannered Presbyterian. The first, Howard kept a dozen bottles of
hot sauce in his desk drawer. After the 116 Club, the Szechuan Pavilion was one of his favorite restaurants. The second involves his friend, great friend Mike “Mad Dog” Madigan, who served with him on the Watergate Committee. That one time in Manhattan, NY, of all places in the apartment of Fidel Castro’s mistress, in the course of casual conversation, Mike Madigan said something that upset Ms. Marita, something she took as a challenge to her own personal integrity. She ran away from her mas-sa and threatened to shoot them both. It was a tense moment. Mike tried to dive under the couch over against the wall. Fortunately, Mike and Howard got out of there unharmed and with a great story to tell.

We all greatly admired Howard. When I became majority leader, I called him on a very late cold December night and asked him to be my chief of staff, and to my great, good, wonderful fortune, he said yes, and he gave me that incredible insight and judgment. Through his personal leadership, integrity, and generosity, he inspired us all.

He valued character. He valued honesty. He valued grace. Above all, he valued people. Howard was loved and respected by individuals across the Capitol complex from Members to doorkeepers to photographers to the hundreds of Senate staff, all young, Democrat and Republican. Howard was a remarkable person who led a remarkable life.

Howard used to sign off his e-mails with the words “all good wishes.” I know I speak for the entire Senate family when I say our hearts are full of good wishes for Howard and his family. We are blessed to have had him in our lives, and we will miss him dearly.

Mr. REID. Mr. President, before the distinguished Republican leader leaves the Senate floor, I wish to express to him more than my appreciation for the kind and very thoughtful words about our friend Howard.

Howard Liebengood represents what the Senate is all about. Spread throughout the Senate, we have hundreds of people who work for us every day who are just like him, extremely well educated. If their goal in life was to see how much money they could make, they would not be working here. They do it because they have a sense of public service, as indicated with his remark.

The Senator’s kind words about Howard today are words that can be directed to each one of the people who work for us. He was what the Senate is all about. He not only should be but is a role model for what the Senate staff, as we call them, try to be. If they completed their term of service having given up the fruits of how much money they could make outside the Senate and were thought of as Howard was thought of, I believe their lives would be complete.

I thank the leader very much. As I said, his remarks not only spoke of a good man but are representative of what the Senate is all about.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the full time in morning business for the majority and minority be given. The standing order was that we would go to the Gutierrez nomination at 3, but I ask that that time be extended.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

INTRODUCTION OF REPUBLICAN LEADERSHIP AMENDMENTS

Mr. FRIST. Mr. President, today we honor the tradition of defining our party’s agenda for this Congress. I take this duty seriously. Because I take our times seriously.

We live during an extraordinary moment not only in the history of America, but in the history of the world. And it is my goal—and the goal of my caucus—to look to the future and seize the opportunities that such times offer.

Social Security is one of the great triumphs in the history of our government. It has lifted millions of seniors from poverty into dignity and provided an essential safety net for disabled citizens.

But soon our Social Security system will be unable to sustain itself. A program created for security will itself become insecure. Social Security works well for those at or near retirement. And, for these men and women, Social Security must remain the same and provide the same benefits. But for future retirees, the future is less certain. That is, of course, if we fail to act. Then we will know the outcome: the retirement of the baby boom generation will place an unsustainable burden on younger Americans.

The President is right to call on the Congress to rise to this crisis. I believe we have an opportunity to rise above partisanship, to do what it right rather than what is expedient, and to leave a legacy of leadership for our children.

This Congress will continue to meet the challenge of our generation, to fight and win the war on terror.

I would like to thank Chairman COLINS for her tremendous leadership last Congress. She successfully completed the first major overhaul of our intelligence services in a generation.

We will continue to look to her as she undertakes the important task of ensuring that we commit our resources where the threat is greatest.

Today, we will introduce legislation that honors our service men and women who have made the supreme sacrifice. They have given all to our Nation and the cause liberty; and we will give more to better care for the ones they loved.

I’m grateful for the hard work of many Senators in this effort, particu-
Critical to our long-term competitiveness is an educated and skilled workforce. Chairman Enzi will introduce legislation today grounded in essential core principles.

We will improve our Federal education and training programs by setting high expectations and raising achievement for all students. We will demand accountability for results. And we will support learning opportunities for students at all stages in life.

It is time that health care followed the rest of our economy and join the Information Age of the 21st century.

Our health care system is a model of spectacular inefficiencies: high and rapidly rising health care costs, growing ranks of the uninsured, chasms in quality and health care disparities.

In order to transform this system, we must agree on a guiding principle: all Americans deserve the security of life-long, affordable access to high-quality health care.

The focus of a 21st century health care system must be the patient. The system must also be responsive primarily to the needs of individuals, rather than third-party payers. In a transformed system, we must reestablish the doctor-patient relationship, and utilize technology to promote efficiency and provide care.

I am pleased that we will be introducing legislation that begins to build on these principles, utilizing the work of Senator Kennedy and the Republican Task Force on the uninsured. We will address rising costs, increase coverage and expand access to care.

We are also a Nation that values community, family, and compassion. We will work to build on the success of our welfare laws which have helped over 7 million people move from dependency to the dignity of work.

But in doing so, we will recognize the need to support those who do the hard work of compassion—caring for those in need. Our tax proposals will support our tax dollars where they work, rather than third-party payers. In a transformed system, we must reestablish the doctor-patient relationship, and utilize technology to promote efficiency and provide care.

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materials from entering the United States. That is Nunn-Lugar. We must do more than what we have done with the Nunn-Lugar legislation.

We must increase our military. Our legislation calls for an increase by 40,000—30,000. The Army and the Marines—so that we have enough troops to win the peace in Iraq and fight terrorism around the world without extending tours of duty to the breaking point.

We will create a Guard and Reserve bill of rights to protect and promote the interests of our dedicated citizen soldiers and fight for the families of those who serve to recognize the sacrifices they have made. S. 13 will fulfill our duty to America’s veterans. It will ensure that all veterans get the health care and prescription drugs they deserve while also expanding the availability and accessibility of mental health care. We will ensure that no veteran is forced to choose between a retirement and disability check, and launch a 21st century GI bill that tells soldiers of today that we will help them succeed when they return, just as we did for those great heroes who returned from World War II, Korea, and Vietnam.

We need to expand opportunities to all Americans, and economic opportunity is going to be extended through S. 14. We, for example, will end tax incentives that encourage companies to ship jobs overseas. We are going to stop store overtime rights for 6 million workers who lost that guarantee last year.

S. 15 will help us with education. It must be a cornerstone of equal opportunity. Democrats will keep our promise to our children by increasing support for preschool education, fully funding No Child Left Behind and making sure it is implemented the right way. We will address the shortfall of math and special education teachers by creating tuition incentives for college students to major in these fields, and we will work to make sure every American who wants it can afford 4 years of college with new tuition tax credits and relief from burdensome loans.

There are problems in rural school districts in Kansas, Nevada, Illinois, Nebraska and Utah. I have found, in my travels through rural Nevada, one of the themes the school districts in rural Nevada have is school buses. That might not seem like much in the overall scheme of things, but it is rare for a bus in Nevada rural districts to be new. They buy used, old buses. The buses will usually run out of the warranty, they will all be over 15 years old, and the buses are worn out before they get them. We could help rural America in lots of different ways, but we could help rural America so much if we provided a way where they could buy new buses. We need to do that. When school districts have these old buses, they have no choice but to ride in outdated, unsafe buses. That is why we will create a Federal program to help rural school districts purchase new buses that will get kids to school in a reliable and safe manner.

S. 16 will make sure health care is more affordable to families and businesses. We know health care costs have spiraled. That is why we will bring into law the Prevents Funding Act, which will legalizing safe importation of FDA-approved prescription drugs from industrialized countries. We will also ensure that every child in America has access to health care and that every pregnant woman in America can get the maternity care she needs and deserves. We will reduce health care costs by creating incentives to modernize health care and by offering tax credits to small businesses.

Finally, we want to build a government that meets its responsibilities both to Americans today and in the future. S. 18 will help America’s seniors. Medicare should work for seniors, not the HMOs and drug companies. First we will eliminate the provision that actually cuts Medicare from using the negotiating power of its 41 million beneficiaries to get lower prices. The Medicare bill has a provision in it that says Medicare cannot negotiate for lower prices. They have to go to Rite Aid and all drug companies. The rest of us. They cannot compete with the HMOs which can buy their drugs in bulk.

We will eliminate the giveaways like the $10 billion shuttle funds for hospitals in the transportation bill. These will improve the prescription drug benefit by phasing out the current donut hole where seniors pay a premium but get no credit. Seniors across the country were shocked by the record increase in Medicare Part B premiums this year. This must be addressed. We must be a government that honors its responsibilities to future generations. We have had reckless spending these last 4 years. It has turned record surpluses into record deficits and has mortgaged our children’s future. It is long past time for Washington to return to the same commonsense budget that families use around the kitchen table every day, and that is why we will call for pay-as-you-go budgeting.

Our final bill, S. 20, will support women in making responsible choices about their health. The United States has the highest rate of unintended pregnancies among all industrialized nations. One in five women in this country are unintended and nearly half of those end in abortion. By increasing access to family planning services, Democrats will improve women’s health, reduce the rate of unintended pregnancies, and reduce the number of abortions, while saving scarce public health dollars.

Security, opportunity, and responsibility—these are more than just three words or three values. They are the foundation on which America’s promise is built. Senate Democrats open the 109th Congress steadfastly committed to keeping this promise alive, so that all Americans who work hard can build a stronger and brighter future for their families. While these 10 bills do not represent all the goals of the 109th Congress, they represent the start and the core of our mission.

No doubt we will tackle many other important issues before Congress closes, but we will never lose sight of the values for which we fight and the promises we must keep.

For instance, when it comes to strengthening Social Security, Democrats will keep America’s promise. The program is our bargain that says those who work hard and pay their taxes have earned a secure retirement. Our values compel us to keep the promise of security to our seniors, and Senate Democrats will do this. We will not irresponsibly cut benefits or jeopardize the opportunity of future generations with $2 trillion in new debt. This is keeping America’s promise, and that is what Senate Democrats will do.

In closing, I would like to say a few words to my colleagues across the aisle. We hope and believe many Republicans share our view that we must not allow partisanship to stand in the way of America’s promise, or let politics get in the way of keeping alive the American dream. Senator Liebengood, Senator Durbin is our pledge. We will work with the majority in meeting the demands of America.

I recognize the first 30 minutes of morning business time was that of the majority. How much time did I use?

Mr. REID. I apologize to my friends on the other side of the aisle. Ten minutes of that will be leader time. The rest Senator Durbin will use for whatever he feels appropriate when our time comes.

The PRESIDING OFFICER. The distinguished Senator from Illinois.

ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, it is my understanding there are two or three Senators on the floor who would like to pay tribute to Mr. Liebengood, as Senator First did. I will ask unanimous consent they be recognized, if we can get an idea how much time they will use, and then if we could return to the scheduled morning business with the remaining time on the Democratic side and then the balance on the Republican side.

Mr. HAGEL. I will require no more than 3 minutes.

Mr. HATCH. Mr. President, I think I can do mine in 5 minutes, maybe less.

Ms. COLLINS. Mr. President, I had requested 10 minutes to introduce a bill at the conclusion of the tributes.

Mr. REID. Mr. President, I apologize. I didn’t know people were here to speak. If I had, I would certainly have held. There is more than ample time. There is 30 minutes in morning business. They will have whatever time they need. There is lots of time.
Mr. DURBIN. Mr. President, I would be happy to renew my request to give, let’s say, 15 minutes for tributes to Mr. Liebengood at this point.

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

That’s Nebraska, the distinguished champion of the Plains, is now recognized.

TRIBUTE TO HOWARD LIEBENGOOD

Mr. HAGEL. Mr. President, I rise, as was noted, to recognize and pay tribute to and remember our dear friend Howard Liebengood. I thought the majority leader’s comments concerning Howard Liebengood could have been recited by any and all who knew him. My friendship with Howard Liebengood goes back almost 30 years. When I first became acquainted with Howard and his wife Dee, we would bet on the Kansas State football game every year. I know the Presiding Officer has a passing interest in that game. Howard, each year, would come back for more. These were the days when Kansas State had not defeated Nebraska for many years. But one of the extraordinary parts of this extraordinary man was his optimism, not only about Kansas State football but about life. All that he touched, all he represented, and all who knew him were uplifted by this gentleman, this man who always put his friends first.

I recall when Howard and Dee’s children were young, I would occasionally go to their home in Vienna for a little chili cookoff. It was not a big group; it was just us. Howard always had the remarkable ability to reach beyond his professional capacity. After all, we are all judged and will be judged by that dynamic at the end of our lives. It will not be for whatever professional accomplishments we have but it will be for what we have done for others and how we are remembered by others, as was noted by the majority leader in his remarks.

So, today, as I and others rise on behalf of Howard Liebengood, we celebrate his life and his family and all the light that he brought to so many of us for so long. This dear, dear man, we mourn Howard had it all.

His loss is so great. Our loss is so great. This body will mourn his loss for so many years to come. I know all here today join in sending our deepest sympathies to the Liebengood family, and our profound admiration for Howard S. Liebengood—husband, father and trusted public servant. I knew him personally very well. He was kind. He was considerate. He was helpful. He was always down the middle. He was someone to rely on.

Let us celebrate his life today and all that was so good in this man, even as we mourn Howard S. Liebengood’s tragic passing at too early a time.

Mr. ALEXANDER. Thank you, Mr. President.

Mr. President, last week Howard Liebengood’s best friend, former Senator Fred Thompson, spoke eloquently about his life with Howard over the last 30 years since their time at Vanderbilt Law School. Marty Gold, whom all of us know, spoke about Howard Liebengood in a little different way. I came for a year. As a result, we invited him last September to our staff retreat. We wanted many of the staff members—some of whom are the age of his children or now his grandchildren—to learn from him how he views this Senate which was his home really for 30 years, why he loves it so much, and why he conducted himself in a way he did in a world that is supposed to be cynical or cutthroat and competitive, where you take yours and the other guy gets his. That wasn’t Howard Liebengood at all.

I have a copy of the notes Howard used for that evening. He went on for about an hour, and the staff members told me they wished he had gone on for 2 or 3 hours. He told stories about Fred Thompson, the Intelligence Committee, and about Howard Baker—many of the incidents which Senator Thompson asked about. When he came to the end of his remarks, he said this.

I believe perhaps the most important thing I can contribute to this discussion honoring our friend Howard is his own words about why he came and why he stayed in the Senate. He concluded his remarks to our staff last October saying this: “I came for a year.”

This is when BILL FRIST asked him to come back.

“And I stayed two.”

He said, “It is hard for me to leave the labor of love that is for me the U.S. Senate, the institution herself, in every way. From the people to the protocol and the opportunity to serve the people of Tennessee, I have relished every moment. How blessed I have been.”

Howard Liebengood told these young staff members, “throughout my life to have these exciting assignments, these remarkable colleagues, spectacular leaders, and challenging work—never a dull moment. I am forever grateful for bringing me here and to Howard Baker for keeping me here and being my personal inspiration, to the incomparable Bill
Mr. FRIST, whom I admire and enjoy working with, and to my other friends with whom I have served. And finally I thank each of you for having me with you tonight.”

The parting thoughts Howard Liebengood to my staff last September were these: “Always be true to yourself. Trust your best instincts. Serve humbly and unselfishly. Distinguished Senator for whom you work and Tennessee at every turn. Relish your time here. Take pride in your work, but never be haughty. Look out for your colleagues at every turn. And walk with the Lord.”

He concluded: “With that formula my experience suggests that both Washington and life will treat you very well. Thank you for having me with you this evening.”

I think all of us would say today that Howard treated Washington and life very well, and we are grateful that he came our way.

Thank you, Mr. President.

Mr. DURBIN. Mr. President, are there further tributes to Mr. Liebengood?

Mr. MCCONNELL. Mr. President, I hope to say a few words about Howard Liebengood.

The PRESIDING OFFICER. The distinguished Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I listened carefully to Senator ALEXANDER’s observations about our good friend, Howard Liebengood. I first met Howard in the Senate in the period when he was technically not working for Senator Baker. I came here the year Senator Baker retired, and Howard was on the way out. I wasn’t sure that I would get to know him because everybody even before I got here—it seemed like everybody I ran into—knew Howard Liebengood. He was part of this institution. He was on the way out as Senator Baker left.

In thinking about the last 20 years—that was 20 years ago—Howard Liebengood really never left the Senate. He was available as a resource to all of us. I called upon him frequently over the entire period when he was technically not working at the Senate but was in town and providing his good advice to anyone who would ask.

I say to my friend, the junior Senator from Tennessee, and to the majority leader, you were lucky that Howard Liebengood was from Tennessee. I wish he had been from Kentucky. He was a wonderful man and a great part of this institution that we will not soon forget.

I yield the floor.

Mr. DODD. Mr. President, I rise to speak on the floor of Howard Liebengood, who passed away on January 13. The majority and minority leaders and other Members of this body have already spoken in Howard’s memory. In addition to associating myself with their remarks, I would like to offer words of reflection on behalf of myself and my wife Jackie, who knew Howard well through her work for Senator Jake Garn of Utah.

As someone who essentially grew up in this institution, I have always had a great deal of respect and affection for the United States Senate. While some today may dismiss the notion as quaint, I continue to regard the Senate as a family—one where personal friendships can transcend ideological beliefs, and one that in its finest moments can rise above party differences to truly make a difference in the lives of the people whom we serve. It is in that spirit that I speak today in memory of Howard, a well-liked member of this family for over 3 decades.

Howard served here in a number of capacities—as minority counsel to the Watergate Committee in the 1970s, where he worked closely with Senator Howard Baker; as Sergeant at Arms from 1981 to 1983; and finally, as chief of staff to Senator Fred Thompson and majority leader BILL FRIST. He also maintained his relationship with the Senate for many years working in Government relations for a variety of clients.

I came to know Howard in 1981 when I entered this body as a freshman Senator, and he began his term as Sergeant at Arms. I gained an immediate and lasting appreciation for Howard—not only as Sergeant at Arms, but as a human being.

The Sergeant at Arms in the Senate is a position that encompasses enormous responsibilities—from security, to printing and graphics, to technology, to recording, to financial operations. To put it quite simply, the day-to-day business here in the United States Senate depends on the Office of the Sergeant at Arms, and on the service of people like Howard.

Howard Liebengood was a man who loved this institution and who loved our country—and that love was reflected in the way he approached his work. Howard was a good and decent man whose humor, calm, and patience were well-known to all of us who were fortunate to know him. He was an individual who worked well with Senators and staff from both parties. Howard always impressed me as someone who cared more about the Senate, and the role it plays in our democracy, than he did about advancing any particular party’s agenda. In all the positions he occupied in the Senate, he always cared deeply about the things that unite us, rather than those that divide us along partisan political lines. He understood that the strength of the Senate as an institution and its significance in shaping our history reside in the ability of its Members to reconcile differences for the good of our Nation.

This institution and our Nation are indebted to Howard for his years of service. I offer my deepest sympathies to Howard’s wife Dee and their three children.

Mr. COCHRAN. Mr. President, I am pleased to join the distinguished majority leader, Mr. FRIST, as a cosponsor of his resolution honoring the memory of Howard Liebengood.

Howard was a good friend of mine and a very trustworthy officer of the U.S. Senate. I first go to know him when he worked as a member of the staff of the Senator from Tennessee, Mr. Baker.

He later served as Sergeant at Arms and Doorkeeper when Senator Baker was the Republican leader.

It was my pleasure to know Howard’s family as well. His wife Deanna was a very important asset and an admired and respected member of the Senate family.

We will miss Howard’s ready smile and his keen insight on the issues facing our country. He was truly a wonderful person and a loyal friend.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding that the tributes to Mr. Liebengood have been taken from the morning business time allotted to the Republican side.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. How much time is remaining on each side in morning business?

The PRESIDING OFFICER. There is 17 minutes on the majority side and 25 minutes on the minority side.

Mr. DURBIN. I ask unanimous consent, that Senator COLLINS be recognized on the Republican morning business side, and I will follow her with the remaining time on the Democratic side.

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

The distinguished Senator from Maine is recognized.

Ms. COLLINS. Thank you, Mr. President. I thank my colleague from Illinois for his courtesy.

(The remarks of Ms. COLLINS pertaining to the submission of S. Res. 8 are printed in today’s Record under “Submitted Resolutions.”)

Mr. DURBIN. Mr. President, I didn’t know Mr. Liebengood, but I listened closely to the tributes made today. He clearly was an extraordinary person who touched the hearts of many in the United States on both sides of the aisle. There are so many like him who give a great contribution to this institution. I hope when the time comes they will receive the same memorial and tributes as Mr. Liebengood received today.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Illinois.

Mr. DURBIN. It is my understanding on the Democratic side we have 25 minutes remaining in morning business; on the Republican side, how much time remains?

The PRESIDING OFFICER. There is 5 minutes remaining on the Republican side.
to start their families, had a lot of babies in a hurry, the so-called baby boom generation. Those kids, first born after 1945, will reach retirement age and start showing up and asking for their Social Security checks. By our projection, we will not have enough money.

So in the mid-1980s, President Ronald Reagan, a leading Republican, came up to Capitol Hill, met with the House Democratic Speaker, ‘‘Tip’’ O’Neill, the leading Democrat of the day, and said: Can we come together and agree on a plan that will make sure Social Security is going to be able to handle the baby boomers. They sat down and went into a lengthy negotiation, a commission, debate, a study, and came up with a proposal. The net result of that proposal was to change the Social Security law in the early 1980s to make certain that Social Security would have a bright future.

In 1983, we passed this law which bought 53 years of solvency for the Social Security system. So we can say for more than half a century Social Security will be running in the black and not in the red.

What changes did we make? Some involve benefits, some taxes. Some were controversial; some were not.

When it is all said and done, we did the right thing. We took a program that was about 50 years old and gave it over 50 more years of life by reaching a bipartisan decision that would give us Social Security that bright future. That is what happened in the mid-1980s.

Now comes the President and his Republican friends in Congress saying: Stop; we have a crisis on our hands in Social Security. If we do not do something, and do it today, if we do not make dramatic changes in Social Security, it will not be there to pay the workers of tomorrow.

That is obvious. The Social Security Board takes a close look at the system and they tell us what we did in the mid-1980s still works today. We have at least 37 more years of solvency in Social Security. So there is no immediate crisis.

Is there a challenge? Yes, because in 2042, we have to change the law so that it brings in more money or in some way is handled in a different fashion so more people are covered. So 37 years from today, there is not another program in the Government that you can say the same thing about. There is no other program that you can say with any certainty is funded to be in existence 37 years from today.

Most other programs depend on the Appropriations Committee and the will of Congress and the leadership of the President for funding. Social Security, left untouched, is on track for 37 years of solvency. Why? Because in the early 1980s, leaders in Congress took a look at the Social Security system and said: We have a problem. The problem is, returning GIs from World War II, anxious...
health care. In the last few years—in fact, in the last 4 years—we have seen a dramatic increase in the number of uninsured Americans. Since President Bush took office, we have increased the number of uninsured Americans, those without health insurance, from 40 to 45 million. And that growth of health care has skyrocketed in America.

What is being done by this administration, by this Congress, to deal with the skyrocketing cost of health care? Virtually nothing. Why? Because in order to make a profit, you have to acknowledge the obvious. The market forces are at work, and the market forces are killing us.

The cost of health insurance continues to go up every year; the coverage goes down. Fewer and fewer people can afford it. Businesses are seeing these costs skyrocket, and they cannot be profitable because of these costs or these costs skyrocket, and they cannot make a profit because of these costs. Why? Because in America the market forces are killing us.

Virtually nothing. Why? Because in 2004 the No. 1 crisis they are facing. Why isn’t that the list on the Republican leadership, to deal with the cost of health insurance in America so that no one face a health care crisis?

We believe on the Democratic side, and have a legislative proposal, to give tax credits to small businesses that do the right thing, that protect their employees with health insurance. That, to me, is reform. It accomplishes exactly what we want. It strengthens small business, the No. 1 generator of jobs in America, and helps them when they do the right and responsible thing by covering their employees. There are a lot of tax cuts people are talking about. You have heard a lot of talk on this floor about them. But this is one that makes eminent sense.

We also need to do something with the realization of the cost of prescription drugs. A lot of people, including the Governor of my State, have proposed that we import drugs from Canada. Why in the world would this great country of ours be dependent on a smaller country, an important but smaller country, Canada, for our prescription drugs?

It is because, frankly, we are not importing prescription drugs from Canada. We are importing political leadership.

The Canadian Government had the political will and courage to stand up to American drug companies and tell them they could not continue to dramatically increase the cost of drugs for sale to Canadians every single year. The American drug companies said: All right, then we won’t. But this Government and this Congress will not stand up to those same drug companies. As a result, costs skyrocket in America, and they are half that cost in Canada.

We have told this Government and this administration have the political will to represent the American consumers and bring prices down, we have no choice but to turn to Canada and other sources of reimported, safe American drugs. We support that.

We also believe we need to monitor drugs more carefully. How many times have we heard the news in the last several weeks, that the Food and Drug Administration discovering that a drug that had been for sale in the United States for a long period of time is unsafe, taken from the market? You have heard of it, I have, time and again. We make startup drug approvals in our country and go through the drug process in a way that will give consumers confidence in what they are buying.

The second issue is the one of education. Many of us voted for No Child Left Behind, the President’s premier education program, expecting that once we identified the problems in American schools, we would provide the resources to deal with them. It did not happen. President Bush and the leadership in Congress refused to fund, to support, the No Child Left Behind, which meant that schools that were falling behind did not have money for smaller class sizes, for after-school programs, summer programs, and tutoring. As a result, having identified the problems, we walked away from them.

We believe on the Democratic side that funding education across America is our highest priority. I just heard the Senator from Maine talk about Pell grants cut because of the Bush administration proposals. And 1,450 will lose Pell grants; 48,000 students will see their Pell grants cut because of the Bush administration proposals. So when China manipulates our trade treaties. So when China manipulates our trade police on the countries that are violating trade practices and trade treaties. So when China manipulates our trade treaties. So when China manipulates our trade treaties.

The Democrats believe that should be a legislative priority. If we are going to lose American jobs overseas, Lou Dobbs talks about this all the time. You know what is happening. Good-paying manufacturing jobs are leaving America. Why are they going overseas? Well, sadly, our Tax Code rewards companies that send jobs overseas. That is wrong.

Secondly, we are not calling in the trade police on the countries that are violating trade practices and trade treaties. So when China manipulates our trade police on the countries that are violating trade treaties. So when China manipulates our trade treaties. So when China manipulates our trade treaties.

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State of Washington. I think that is something we can do and should do.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. Six minutes.

Mr. DURBIN. I thank the Chair.

Madam President, I would like to close on this note: There is a lot of discussion here, starting with the President's inaugural, about the whole concept of an ownership society. I think this is going to be the driving philosophy and the driving political force behind the Republican agenda. The concept is alluring because the concept says: Wouldn't you want to control your own future? Wouldn't you like to own your future as opposed to depending on the Government? You cannot be certain that Congress and the Government will come through for you. So wouldn't you rather own your own future?

Boy, that has a lot of appeal, particularly to young people who feel invincible, that just given a chance: Let me take the money, let me invest for my future, let me make these decisions. That is not a bad quality. It is an independence that we encourage in individuals, only one that I support. But we should not overlook the obvious.

At the heart of the ownership society is the basic belief that we should just remember that when it comes to America, you are all in this alone. I do not think that is true. I think history tells us that standing alone are some things we can do but other things we cannot do.

If you want to be successful in America, you need good health. Can you control your own fate when it comes to health care? Only if the system treats you fairly. If you happen to be somebody with a preexisting condition and no insurance company will offer you coverage, you are not likely to be treated fairly. If you happen to be one who comes from a family with some history of mental illness, you will find rank discrimination by hospitalization insurance companies right now.

The point I am making is this: We have decided that to make certain people have a chance in America to succeed when it comes to health care, there will be rules of the game, there will be laws in States, and laws in the Federal Government and agencies to enforce them. Ownership? Yes. To have ownership of your future, you need good health care. To have good health care, you need to have a government standing behind you and protecting your right to fair treatment when it comes to health care.

How about education? Do you want to go it alone with the ownership society? Well, you may need a Pell grant to get through school. I borrowed money from the National Defense Education Act to get through college and law school. Students find, over and over again, were it not for Government programs, they might not be able to go to school. You want to own your future? Then you need to have leadership at the Federal, State, and local level to give you the chance to borrow the money.

What about your pension that you spend a lifetime paying into, believing you own that? That is not Government. I own that. And then the company disappears or walks away from its obligation to you, What fighting chance do you have? None, unless there is a law that protects you and an agency that will enforce that law.

So when you hear this alluring prospect of an ownership society, understand we value individual freedom on both sides of the aisle, but we also understand that in many instances the strength of our Nation is when we stand together—for fairness when it comes to health care, for opportunity when it comes to education, to have protection when it comes to your pension and your future.

We need a handkerchief. Walking away from Government, as an evil entity, is ignoring the fact that Government, in many instances, is just the American family at large. As my wife and I care for our children, we care for others in this country, and those who are short-changed by this system and who are not protected. Even if it does not affect me directly and personally, it affects this country, and it affects my future.

So I hope we can find some balance. I hope we can stand and done, we do not get so caught up in this alluring notion of the ownership society that we forget, as we are learning with our military, we have learned in our history, there are times when we need to stand together as a nation for fairness and for justice. We say here is security, opportunity, and making certain people have responsibility in their actions.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields the floor?

The Senator from Alaska, Mr. INOUYE. I yield the floor.

The PRESIDING OFFICER. Who yields the floor?

The Senator from Hawaii, Mr. INOUYE. I yield the floor.

The PRESIDING OFFICER. Who yields the floor?

Mr. STEVENS. Madam President, if there is no further business to come on this side—and I do not think there is—I yield back the remainder of our time on our side.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Madam President, I yield back the remaining time on our side.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF CARLOS M. GUTIERREZ TO BE SECRETARY OF COMMERCE

The PRESIDING OFFICER. Under the previous order, the hour of 3 o'clock having arrived, the Senate will proceed to executive session for consideration of Executive Calendar No. 1, which the clerk will report.

The legislative clerk read the nomination of Carlos M. Gutierrez, of Michigan, to be Secretary of Commerce.

The PRESIDING OFFICER. Under the previous order, there will be 2 hours of debate on the nomination, with 1 hour of debate under the control of the Senator from Alaska, and 1 hour of debate under the control of the Senator from North Dakota.

The Senator from Alaska.

Mr. STEVENS. Madam President, it is my intention to make a statement presenting the nominee's qualifications and the consideration the Commerce Committee gave to this nomination, to be followed by time that I will yield to the Senator from Hawaii, Mr. INOUYE. I hope that will be acceptable to Senator DONGAN. His time would start following Senator INOUYE's time, who I understand is on the way to the Chamber.

This was the first nomination that came before the Commerce Committee after I became chairman. President Bush nominated Mr. Carlos Gutierrez to be Secretary of Commerce on November 29, 2004. Mr. Gutierrez is the chairman and chief executive officer of the Kellogg Company, a major food products company based in Battle Creek, MI. The incredible story of how he got there, rising through the ranks, is a testament to the American spirit.

Shortly after Fidel Castro assumed power in Cuba during the Communist revolution, Carlos Gutierrez and his
family fled their native country. They arrived almost penniless in Florida and, after several years, eventually settled in Mexico City. There at the age of 20, Carlos Gutierrez took a job selling cereal out of the back of a van to small grocery stores.

With a lot of hard work, 10 years later, he was general manager of Kellogg’s Mexico division. Fifteen years after that, he was running the whole company. It is a great American success story by any measure.

Mr. Gutierrez’s nomination comes before the Senate at a time of significant change in the American economy. The shock of September 11, 2001, a series of corporate scandals, and the spending pressure of the war on terror, including the Iraq conflict, have taken their toll.

However, the President’s economic stimulus program, centered around tax relief, is helping our economy corner. The economy has created more than 2.4 million new jobs since August of 2003—15 straight months of job gains. The unemployment rate is at 5.4 percent, down from 6.3 percent last June, and is closer to the average of the 1990s. After-tax income has risen more than 10 percent since the end of 2000, and household wealth is now at an all-time high. Even the stock market has shown strong gains in recent months.

Secretaries of Commerce spend much of their time promoting American business at home and abroad. If confirmed, Mr. Gutierrez will have an impressive record of growth at his disposal.

There is much more to the Department of Commerce than representing America’s economic interests. Most of the Department’s budget is devoted to the National Oceanic and Atmospheric Administration. NOAA’s role in predicting tsunamis was not well known outside of the Pacific coastal States before last month’s devastating tsunami in Asia. The administration recently created a strong proposal to improve detection and response to tsunami events along the U.S. coast. NOAA will be the lead in this critical endeavor.

Mr. Gutierrez has probably already learned more about fisheries than he ever expected. If confirmed, he will learn much more. The recent report of the U.S. Commission on Ocean Policy reaffirms the important role that domestic fisheries play in our society. Fisheries create jobs in rural communities and provide valuable protein in the world’s food supply. The report of that commission highlighted the need to manage all fisheries in a sustainable, regional manner. And that is exactly what has taken place in the State that the occupant of the Chair and I have the honor to represent. Our State, with half the coastline of the United States, has led in developing new policies to protect and preserve the reproductive capability of the fisheries off our shore.

I commend the President for his Executive order creating a Committee on Ocean Policy within the White House. Those of us on the Commerce Committee look forward to working with the President and Mr. Gutierrez to ensure that our Nation’s fisheries are managed sustainably, responsibly, and regionally.

On January 5, Senator INOUYE and I held a hearing in the Commerce Committee on this nomination. Mr. Gutierrez answered a variety of questions at the hearing and has since responded to many more written questions. The next day, the committee unanimously voted to report this nomination to the full Senate. I am here today to recommend the Senate’s quick confirmation of this nomination.

I thank Mr. Gutierrez for his willingness to serve our Nation and the Department of Commerce, and I join in congratulating the President on this fine nomination.

Mr. Gutierrez has my strong support, and I do urge the Senate to vote to confirm this nomination as quickly as possible.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. INOUYE. Madam President, I ask unanimous consent to speak for 4 minutes.

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

Mr. INOUYE. Madam President, I rise in support of the confirmation of Mr. Carlos Gutierrez to serve as our Nation’s Secretary of Commerce. As Secretary of the Department of Commerce, Mr. Gutierrez will take over the helm of a very diverse department, for example, responsible for counting fish as well as people, predicting the weather, developing and promoting standards, technology, and promoting fair trade. This is a very difficult and complex appointment, but I believe Mr. Gutierrez’s impressive background and experience will serve him well in this position.

He was born in Cuba. Mr. Gutierrez left Havana in 1960, shortly after Fidel Castro took power. Although he has no college degree, through hard work and perseverance, he rose from delivering corn flakes to small stores in Mexico City to the moment when he took over Kellogg’s cereal and convenience food empire.

While at Kellogg, he revitalized the company and put it on a new path of success. Mr. Gutierrez will face a variety of demanding challenges during his tenure. But few are greater than addressing the administration’s current record on trade. Just this month, our trade deficit hit an astounding and record-breaking $60.3 billion, and I am certain that all of us will agree that this is entirely unacceptable. I would like to see the new Secretary lead the Department in an innovative and comprehensive effort to reverse the current trend. I can assure Mr. Gutierrez that this committee will be a committed partner in such an effort.

I urge my colleagues to support the confirmation of Mr. Carlos Gutierrez to serve as Secretary of Commerce.

I yield the floor.

MRS. STEVENS. Madam President, I yield such time to the Senator from Montana as he may desire to use.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I thank the chairman of the Commerce Committee. I rise in strong support of Carlos Gutierrez as the next Secretary of Commerce. I applaud the President for this choice for many reasons. Not only is he a classic American success story by any measure, but he offers a strong background in the economic landscape which has been the subject of much of our debate here of late.

I am especially happy to see the President choose someone from a manufacturing background. He also has a background on the ground, so to speak. It is something to manufacture a product; it is also something to sell the product because we live in an economic system where nothing happens until a sale is made. Mr. Gutierrez understands both ends of that equation.

For a long time, and since I have been here, this is the first Secretary of Commerce who has a business background. Everything the Kellogg Company does starts in the ground. I am especially happy about that. I would hope we could work together. I have always said there is nothing wrong with the farm except we just don’t get as much of the consumer dollar as we used to. We are going to work on that kind of situation.

The Commerce Committee oversees some of the most important and controversial diverse sectors of this country and my State of Montana. With his commitment—I have yet to meet the man, but we have had an extended telephone call—to work with Congress on these issues, his quick response to the questions I sent to him, and the things he is going to be doing at Commerce, will put him in a position to assist many sectors of our economy. I would like to take a few moments and highlight some of them and where these issues will be discussed prominently in the upcoming session.

Let’s start with one that affects my State, the timber industry and softwood lumber. Small mill operators in Montana rely on our Department’s enforcement of U.S. trade laws, particularly against unfair trade acts, such as we have seen coming out of Canada. It is important that the Commerce Department ensures full enforcement of the trade laws in the softwood lumber sector by amending our current subsidy measurement benchmarks. The 911 implementation was critical legislation. The enhanced 911 bill that
Mr. Gutierrez has indicated his support of full enforcement of trade laws in the softwood lumber sector and I applaud that support.

Mr. President, during my time as the Chairman of the Communications Subcommittee, I made it a priority to move forward and implement the deployment of universal broadband. Along with my colleague Senator JAY ROPELLE, we have pushed for legislation that would provide for broadband expensing. As you may know, broadband expensing would allow companies to accelerate depreciation of capital-intensive broadband equipment. I am hopeful that the Department will provide assurance in passing this legislation as part of the President's vast broadband vision.

I also would urge the Secretary to devote his personal attention to an important issue regarding the future of the Internet. I am referring to the security of the Domain Name System, which is what ensures that each website address in the Internet resolves to a unique website reliably and securely. It is vital for the future of e-commerce and the health of the economy that increasingly depend on it, that this process work flawlessly. During the Clinton administration, a private non-profit company known as the Internet Corporation for Assigned Names and Numbers, or ICANN, was established to oversee the real technical governance, and I do not think that ICANN is falling victim to a little bit of the challenges that my State and the country are faced with under a vast umbrella of international cooperation. However, I am concerned, and I know some of my colleagues are as well, that ICANN may fall victim to "mission creep" in this case, the tendency for it to turn into a mini-international organization, and all the political baggage that comes with that. If so, ICANN's actions could potentially go well beyond the narrow technical mandates that were envisioned for it at its creation. ICANN currently is subject to an agreement with the Commerce Department, and I am concerned that not only ICANN but the Department itself has not been as diligent in its oversight role as it should be.

Mr. Gutierrez will soon be in the position to assist many important sectors of our economy. I would like to take a few moments to discuss some of the challenges, priorities and issues faced in my State and many others.

As you know, the U.S. timber industry jobs and operations, including small mills and businesses, rely heavily on effective enforcement of U.S. trade laws, particularly against unfair Canadian lumber imports. In evaluating the extent of Canadian timber subsidies, for example, it is imperative that the Commerce Department ascertain the true market value of Canadian timber in comparison to timber pricing data that reflects full value. It is important that the Department ensure full enforcement of the trade laws in the softwood lumber sector, including selection of accurate subsidy-measurement benchmarks.

Finally, I would like to voice my support for Mr. Gutierrez's nomination. I look forward to working with him on many of the challenges that my State and the country are faced with under the vast umbrella of commerce, and those parts of the economy that increasingly depend on it, for example, it is imperative that the Department of Commerce ascertain the implications of its actions. I hope that Secretary Gutierrez will take the initiative to understand this vital issue and consult with Congress closely on it in the coming years.

In conclusion, I am especially happy to see the Hollings Manufacturing Extension Partnership which is administered at the Department of Commerce. Montana is a rural State but we have needs and opportunities that the Hollings Manufacturing Extension Partnership has helped address.

Mr. President, I believe President Bush has chosen someone with a background and opportunities it presents. That is what makes our committee a unique website reliably and securely. It is vital for the future of e-commerce and the health of the economy that increasingly depend on it, that this process work flawlessly. During the Clinton administration, a private non-profit company known as the Internet Corporation for Assigned Names and Numbers, or ICANN, was established to oversee the real technical governance, and I do not think that ICANN is falling victim to a little bit of the challenges that my State and the country are faced with under a vast umbrella of international cooperation. However, I am concerned, and I know some of my colleagues are as well, that ICANN may fall victim to "mission creep" in this case, the tendency for it to turn into a mini-international organization, and all the political baggage that comes with that. If so, ICANN's actions could potentially go well beyond the narrow technical mandates that were envisioned for it at its creation. ICANN currently is subject to an agreement with the Commerce Department, and I am concerned that not only ICANN but the Department itself has not been as diligent in its oversight role as it should be.

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Before I do that, let me talk for a moment about Social Security. In recent
days there has been a great deal of discussion on that issue. The President
indicated that this would be one of the first items we will be confronted with.
He talked to me about the danger of private accounts in the Social Security system,
because he says there is a crisis in Social Security. Well, there is not a crisis in So-
cial Security. Let me make it clear. There is no crisis in Social Security. If we
have the same economic growth rates as we have had the past 75 years that we had
in the past 75 years, Social Security will be just fine.

The only way there is a crisis in So-
cial Security—or you can at least create
the impression that there is a cri-
sis—is if you attempt to project growth
rates that are dramatically lower than
that which we have experienced. If you are going to project lower economic
growth rates—1.8 percent, for example—over the coming years, then you cannot
say it is somehow money in the stock market through private accounts is going to solve any
kind of problem.

It is interesting to me that the ethic
and value system in America has been that
if you are going to plan for your future, you save for retirement.
The President is suggesting that we should borrow $1 trillion to $3 trillion
and dump it in the stock market and hope things will be all right. Even as we do that, the President says Social Security will have only 1.8 percent economic
growth rates, which is what the basis is
for suggesting there is a huge problem
in Social Security—if you are a pes-
simist, then you can suggest there need to be adjustments in Social Security.
But that cannot be a pretext for taking
apart the Social Security system.
That is what some wish to do. They
never liked it, don’t like it now, and want to
take it apart. How? They want to cre-
ate private investment accounts inside
the Social Security system, which is a
big wet kiss to Wall Street to move
money that is borrowed to Wall Street
and prove it somehow the social pro-
gram will remain intact.

We have already had substantial ex-
perience in the last several years with
economic projections by the people
telling us this will work. They
inherited the largest budget surplus in the
history of this country and we now
have about 20 years of surplus in his-
tory. They didn’t see it coming. They
said, by the way, let’s count these 10
years of surplus before they exist and
give them back in tax cuts. Some of us
said maybe we ought to be more con-
servative. These surpluses don’t exist.
The President said never mind, Katy
bar the door, give all these mon-
ey back even though they have not
been realized; give them back in tax
cuts.

The fact is we turned the largest
budget surplus in the history of this country.
The same people who
predicted success for economic failure are the people telling us we ought to take
apart Social Security program under the guise of there being a crisis.
Let me make one additional point that I think is very important. Those
who tell us that we will have only 1.8 percent economic growth for the next
75 years, and therefore we have a fi-

nancing problem with Social Security,
also say that private accounts in So-
cial Security invested in the stock
market will yield 7 percent. Therefore,
it will fix the problem. Double-entry
bookkeeping doesn’t mean you can pre-
tend. You cannot say on the one hand
we are going to have slow economic
growth, and therefore a crisis in Social Security, and on the other hand, dur-
ing periods of slow economic growth we
will have 7 percent on private
account. It doesn’t work that way. Third-grade math will tell you
that is fundamentally wrong.

My hope is we will have a thoughtful,
interesting debate about retirement se-
curity and about Social Security. I
hope at the end of that debate, we will
all agree that we should do nothing to
undermine Social Security. If we be-
lieve that there is nothing more impor-
tant than our children and taking care
of them, and they are elderly, we ought to protect
the social safety net that promotes
those values.

Social Security has lifted so many
in this country out of poverty. It has
worked for 70 years and it will work for
the next 70 years and well beyond. I for
one am not interested in taking apart
the Social Security system, which is a
better place for Wall Street. But let’s
not forget those who gave us what we now have in this
country, who went before us and
helped build this country, built our
communities, factories, and schools,
and helped increase the stand-
ard of living, expanded opportunities for our country—those are the people
from whom we have inherited this
great life.

If we have decided somehow that we
do not have the wherewithal to continue
to make Social Security system work for them, to keep it a promise
they can count on, then there is some-
thing wrong with the value system of
this Congress. I don’t believe that to be
the case. I think at the end of the day all agree that Social Security is
a value that is important, one we will
strengthen and keep.

Enhancing retirement security is im-
portant as well and, at the end of the
day, we ought to talk about Social Security-plus. We can do Social
Security, keep it strong in the long
term, and build further incentives for
IRA, 401(k)s, and pension programs.
That ought to be our mission state-
ment.

Let me turn back now to the issue
of international trade. We have before us
the nominee for the U.S. Department
of Commerce. That is one of the agen-
cies in our country that deals with
trade issues.

Mr. Gutierrez, President Bush’s
nomination to lead the Department, is
someone whom I will support today.
But I don’t want this moment to pass
without all of us having to confront
something that is very uncomfortable
for this country, and that is we have a
trade policy that is weakening America
and that is in fact a “crisis.” I de-
scribed where the crisis doesn’t exist,
in Social Security; but there is a bona
fide crisis in international trade.

Last month, we heard a report that
we had a $60 billion trade deficit—just
last month alone, $60 billion. We are told that we should expect, when all of last year’s numbers are in, that our trade deficit will top $600 billion. Add to that the budget deficit of over $400 billion, and we have a combined indebtedness of over $1 trillion in this past year alone—$1 trillion. Talk about being irresponsible with our kids’ future. This is it. Yet, do you hear anybody talking about the urgency of this? Not a word. Not a whisper. It is like shouting into a strong wind to talk about trade.

Well, let’s talk about some of the issues related to this soaring trade deficit. I am going to go through a series of examples.

The January 10 edition of Time Magazine had an interesting article in it. It says:

Chinese pirate companies have long been accused of illegally copying easy stuff like shoe polish and digital movies. Now General Motors says a Chinese firm knocked off an entire vehicle—and Americans could soon start buying its cars.

So let’s talk about that. It is reported that a Chinese firm, called Chery, has stolen production line blueprints for a compact car called the Chevrolet Spark. It is a car that General Motors spent hundreds of billions of dollars to develop and the copy car is called QQ. It looks like an identical twin to the Spark. The Chinese company already sells QQ in China for $3,600, a third less than the General Motors car.

Chery, the automobile company in China, has now announced plans to sell five different models, including a sport utility vehicle, in the U.S. It teamed up, apparently, with Malcolm Bricklin, who brought the Subaru to America in the 1960s. Their plan is to import up to a quarter of a million Cherys a year starting in 2007. The Chinese want to send us a quarter million Chinese cars in a year.

Well, what to make of that? Let me describe a trade agreement that our country made with China a while back.

We had a bilateral trade agreement with China. This is a country that had a large surplus with us. Our negotiators negotiated a deal with China. Inexplicably, they agreed to this. They negotiated a deal where the Chinese can impose a 25 percent tariff on any United States cars we ship to China.

But if those cars sent from the United States, we impose only a 2.5 percent tariff. So our negotiators said to a country with which we have a giant trade deficit: We will agree with you that you can impose a tariff on bilateral automobile trade that is 10 times higher than that we will agree to impose: 2.5 percent on Chinese cars coming into our country, 25 percent on U.S. cars that we try to sell in China.

You ask yourself: Who on Earth would have done that? I don’t have the foggiest idea. Our trade negotiators seemed to think that this was a good thing.

And yet we see all of these reports now about American jobs being sent to India. Apparently, the only thing we can send to India are jobs, not goods.

India has a 105-percent tariff on cars and motorcycles—in fact, we cannot sell motorcycles in India. They impose a 100 percent on oranges, over 100 percent on raisins, 30 percent on soybeans, 100 percent on durum wheat.

A family in Illinois this year decided to do something different for Christmas. They decided they were going to ban China from under their Christmas tree. The mother decided that she was going to buy U.S.-made Christmas gifts. Peggy and Dave Smedley were going to buy American for Christmas.

Of course, that meant no iPods, no digital cameras, no tabletop football games. And in the end, it was barely possible for them to find all the Christmas gifts they wanted for their children. They found a Monopoly board game that appeared to be made in the U.S. but they discovered the dice actually came from China. Their son wanted American-made boots, and Peggy Smedley looked in 30 stores for boots that were made in America before giving up. The Smedley kids were concerned they might not get any presents at all for Christmas because of their mother and dad deciding they wanted to buy American.

The 13-year-old Smedley son said he did not know what to expect because “I
mean to our country? What does it show them.

I have a little decal of the American flag on my desk. It is a small one, but a trade surplus. Then we did what was called the North American Free Trade Agreement, and this chart shows what happened. Right here is the trade surplus. Then we did a North American Free Trade Agreement. We had a bunch of these economists, who cannot tell their horse's address and can neither give their phone numbers, give us all kind of highfalutin' predictions about what is going to happen. They said this is going to be good for America; the only thing that will come into this country from Mexico with this trade agreement is the product of low-skilled, low-wage jobs. Guess what. The three largest imports into America are automobiles, automobile parts, and electronics, all the product of high-skilled jobs, exactly the opposite of what these so-called economic experts told us.

In the meantime, what happened with our trade with Mexico? We have a
We had roughly a $130 billion deficit with China previously. It is probably $160 to $170 billion just in the last year. Yet we have only 19 people in the Department who have to do trade agreements with China.

I want to talk just for a moment about something else that Mr. Gutierrez will inherit at the Commerce Department. I know it is not quite the important issue that China, the European Union, Mexico, Canada, and Korea are with respect to trade, but I want to talk for a moment about Cuba.

Cuba is 90 miles off our shores. It is a Communist country. The fact is, we do business with Communist countries. We sell and buy from China, a Communist country. We do business with Vietnam. We do that because our country’s official policy is engagement through trade and travel. That is the way to move these countries in the right direction. We believe that very strongly. Republicans and Democrats claim that to be the case.

It seems to be different, however, with Cuba. Although we do business with Communist China and Communist Vietnam, Cuba seems somehow to be different.

Then Senator John Ashcroft and I offered an amendment on the floor of the Senate which became law. It became law after 40 years of an embargo in which we couldn’t sell a thing to Cuba. Senator Ashcroft and I said it is immoral to use food and medicine as a weapon; that we ought to be able to sell food into the Cuban marketplace. So we got it passed. The provision was that the Cubans had to buy food with American paper. But, nonetheless, we got it passed.

The Cubans have purchased nearly $1 billion worth of agricultural products from American farmers. But some in this administration have never liked that, and they are doing everything they can to derail and try to stop the sale of agricultural products into Cuba. We have had farm fairs and agricultural fairs in Cuba. The Farm Bureau, the Farmers Union, and American agricultural fairs in Cuba. The Farm Bureau, the Farmers Union, and American agricultural fairs in Cuba. The Farm Bureau, the Farmers Union, and American agricultural fairs in Cuba. The Farm Bureau, the Farmers Union, and American agricultural fairs in Cuba.

We have been told by the Office of Foreign Assets Control, they have been doing everything conceivable to stop people from traveling to Cuba—yes, even to travel to sell agricultural products—and to stop the sale of agricultural products into Cuba.

I want to give an example of the absurdity of this. This is a wonderful young woman, Joni Scott, who is looking at a Bible. She is a wonderful young woman, a Christian woman, who went to Cuba to
It is not the case, for instance, that outsourcing of American jobs strengthens this country. The President’s chief economic adviser said outsourcing is good. I guess it’s good as long as he doesn’t lose his job. The fact is, neither nor people like him ever lose their jobs in this construct. They never lose their jobs.

This is about working families, the kind of people who helped build this country of ours, the kind of people who value work. They are the ones who lose their jobs. They are the victims of unfair trade.

My hope is just once—perhaps just once—there would be some kind of fire alarm with a $60 billion-a-month trade deficit. But I hear nothing. There is this vast silence. I hear nothing about that being a crisis. All we hear is Social Security is in crisis, which, of course, is not the case.

My hope is that perhaps we can find a way in the coming months, we can talk about the next step there is a crisis in trade, and perhaps have the President call an emergency meeting of policymakers and decide what we do about this. But there is this vast silence about it. Nobody wants to talk about it because Peking will say nobody here is losing their jobs. But this country will not long remain a world economic power if it doesn’t put its fundamentals in order.

There is a book called “The Lexus and the Olive Tree” written by Tom Friedman. In it, he makes the point that just because there is a run on a bank, it is not about whether the bank is solvent or has a problem, it is about whether people perceive it to be solvent. He makes the point that market traders always perceive strengths and weakness. And when they move against your country and against your currency, beware.

This country cannot long exist with a trillion dollar shortfall. In both budget deficits and trade deficits, the fundamentals are out of line—completely out of order—and everyone here should know it. Yet we are waltzing around here acting as if nothing is happening. That doesn’t serve this country’s interest. We know better. The American people know better. Our trade policies are in serious trouble and deserve our full attention.

On behalf of American workers, on behalf of American businesses, and on behalf of the future of this great country, we owe it to our kids, we owe it to our future to address this important issue.

Ms. CANTWELL. Mr. President, I wanted to let my colleagues know briefly of the reasons why I support the nomination of Carlos M. Gutierrez to be Secretary of Commerce. The Senate will vote on this nomination later today. I had the opportunity to sit down and speak with Mr. Gutierrez at least. With his limited experience with matters handled and regulated by the Commerce Department that are important to Washington, such as fisheries, aerospace, and telecommunications, I was impressed by his general business acumen and management skills. I also found him willing to be personally engaged and to engage others on issues outside of his area of expertise. I appreciate his willingness to work with us as we move forward to working with him in the future.

Mrs. FEINSTEIN. Mr. President, I want to share my views on the nomination of Carlos Gutierrez to become United States Secretary of Commerce. Gutierrez’s roots at Kellogg Company—from selling cereal out of a truck in Mexico City 30 years ago, to serving as the company’s CEO—is truly a remarkable achievement. Such business expertise will be pivotal for Mr. Gutierrez as Secretary of Commerce. In part, for this reason, I am confident that Mr. Gutierrez is a qualified candidate for this office.

Nonetheless, I believe that it is important to take note of the breadth of experience and issues that the Secretary of Commerce oversees.

Advancing technology, trade, and business development are just a few of the important responsibilities that the Secretary of Commerce must assume. Particularly, in my home State of California, the Secretary has enormous influence.

The Secretary is responsible for the National Oceanic and Atmospheric Administration, NOAA, which is critical to our ability to make use of oceanic and atmospheric research. For instance, NOAA operates the National Tsunami Mitigation Program, which NOAA created in 1997 and maintains in the Pacific Ocean today.

The Secretary of Commerce also oversees the International Trade Administration—ITA. In agriculture, manufacturing and numerous other sectors, trade plays a vital role in the daily lives of Californians. According to ITA’s latest data, 55,421 companies exported goods from California in 2002. Of these companies, the overwhelming majority were small or mid-sized enterprises with fewer than 500 employees.

I believe that strengthening our relationships with trading partners is fundamental to the continued growth of California businesses. With the Secretary’s leadership, fair and balanced trade policies will help California’s businesses increase our export capacity even further.

I applaud the nominee’s openness in his previous statements on the need for reforming specific trade policies that need improving. I hope that Mr. Gutierrez will be a force for leveling the playing field for trade in the future.

Although his role representing Kellogg Company was decidedly narrower than that of Commerce Secretary, I expect that Mr. Gutierrez will weigh in on the policy and consequence when considering trade policy. The people of California and the United States depend on it.
Much of the Commerce Secretary’s time must be spent encouraging business development. Too many jobs go overseas and I believe that a robust policy to vigorously promote job growth should be a top priority for the Secretary.

Since 2001, over 2.7 million manufacturing jobs have been lost. We have also sustained net job losses in the private sector since 2001 and household median income continues to lag. We can and must do better.

The secret to success in the current market—like the Economic Development Agency—EDA, the Commerce Secretary can be a real catalyst for economic growth. By funding public works projects and innovative enterprises the EDA brings opportunity to the communities that need it most.

I hope that as Commerce Secretary, Mr. Gutierrez will aggressively protect American jobs and encourage job creation, making full use of resources like the EDA.

The responsibilities of the Secretary of Commerce are complex and far-reaching, and this will certainly be a challenging position for Mr. Gutierrez.

There is a great deal of work to be done, and I look forward to a productive working relationship with Mr. Gutierrez.

Mr. CONRAD. Mr. President, today I want to share a few thoughts on the nomination of Carlos Gutierrez to be Secretary of Commerce.

The Commerce Department has responsibility for a broad range of important issues. Managing this diverse portfolio would be difficult in the best of circumstances. But there are a number of special challenges that make the job facing Mr. Gutierrez even tougher.

Let me start with trade. A couple of days ago, the Commerce Department reported that our trade deficit for November exceeded $60 billion. Twelve years ago, our trade deficit for the entire year was just $10 billion. Now it is on track to exceed $600 billion. This course is unsustainable. If we do not start taking steps now to address this imbalance, we could face a collapse in the value of the dollar that would spark inflation, roll our markets, and dampen our economic prospects for years to come.

I hope Mr. Gutierrez will take this issue very seriously. We need to make it clear to our trading partners that it is not acceptable for them to devalue their currencies to gain a competitive advantage over American producers. We need to strictly enforce our laws against unfair trade practices. We need to insist that our trading partners comply with the trade agreements they have signed with this country. And we need to forcefully advocate for global trade rules that will unequivocally benefit U.S. businesses, farmers, and workers.

I want to touch on one issue in particular. During Mr. Gutierrez’s tenure as CEO, Kellogg lobbied to increase sugar imports into this country. Sugar is a vital industry in my part of the country. The sugar industry pumps $2 billion a year into the economy of the Red River Valley in North Dakota and Minnesota. So it concerns me greatly when anyone suggests we should dismantle our successful sugar program to take in more foreign sugar. I had the opportunity to visit with Mr. Gutierrez a few days ago, and he has assured me he understands that as Secretary of Commerce he would be representing all U.S. businesses, including the U.S. sugar industry.

I am confident that Mr. Gutierrez understands the interests of sugar-consuming companies. We also face big challenges on a host of domestic issues within the jurisdiction of the Commerce Department. For example, over the next two years, the Congress will be revisiting the 1996 Telecommunications Act. In the 8 short years since that act was passed, we have had a revolution in communications technology that will require us to rethink many of the rules we adopted then. As we do so, it is critically important that rural areas not be left behind. I have always been a strong supporter of the Universal Service Fund and the assistance it provides to rural areas. I am committed to ensuring that rural areas have access to innovative and affordable telecommunications technology, and look forward to working with Mr. Gutierrez on initiatives to close the technological gap between urban and rural areas.

Carlos Gutierrez brings an impressive business background to this set of challenges. Born in Cuba, raised in Florida, Mr. Gutierrez is now working for Kellogg in Mexico. From that start, he was steadily promoted until he became chairman and chief executive officer. As CEO, he has been credited with turning Kellogg around. It is easy to see why the same success in turning around our trade policy and bring the same energy to tackling the domestic challenges under his purview.

Mr. LEVIN. Mr. President, I heartily support the nomination of Mr. Gutierrez to be Secretary of Commerce. In nominating Kellogg’s CEO Carlos Gutierrez to be the next Secretary of Commerce, President Bush selected a Michigander who has a wealth of business experience both in the U.S. and abroad which gives him a unique understanding of our country’s role and challenges in the global marketplace. He also has a proven track record of wise budget management.

Mr. Gutierrez succeed the quintessential American dream, emigrating to this country with his parents at the age of 7 from Cuba and working his way up the ranks of the Kellogg Company. Emigrating in a van, stocking the shelves of his customers, to becoming the highly respected President and CEO of a top American Fortune 500 Company. His story is as American as Corn Flakes and baseball. He is a passionate fan of both.

Mr. Gutierrez’s home is in Battle Creek, MI, a medium-sized, midwestern city in America’s heartland. Mr. Gutierrez has a firm grounding in many of the values and strengths that make this country great. He also has a firm grasp of some of the challenges facing American manufacturers.

We are facing a manufacturing jobs crisis in our country. The U.S. lost a record number of manufacturing jobs during President Bush’s first term, 149,000 of which were in Michigan. The state’s unemployment rate stands at 7 percent, the third worst State in the Nation.

Unfortunately, this crisis has been worsened by the administration’s failure to fund many of the programs that can strengthen our manufacturing sector. The Commerce Department’s Manufacturing Extension Partnership program, for example, which helps small and medium-sized manufacturing companies remain competitive and has led to $3.7 billion in sales and helped create over 100,000 manufacturing jobs in the past four years, faced an 88 percent cut in the President’s 2004 fiscal year budget request and a 63 percent cut in the 2005 fiscal year request.

I hope Mr. Gutierrez and his predecessor eliminated the Commerce Department’s Advanced Technology Program, which encourages public-private cooperation and focuses on improving the competitiveness of American companies in the global marketplace. Manufacturing jobs pay high wages, provide health benefits and offer retirement security. We cannot afford to lose these good jobs or let them leave our country. I am hopeful that as Secretary of Commerce, Carlos Gutierrez will prove to be a strong advocate for these programs.

In addition to rebuilding our base of manufacturing jobs, we need to devise a trade policy that focuses on opening foreign markets rather than employing policies that encourage jobs to move overseas or tolerating foreign barriers to our goods and expanding trade deficits.

During his time at Kellogg, Mr. Gutierrez managed sales for the company’s international divisions, including serving as the general manager of Kellogg of Mexico, the president and CEO of Kellogg Canada, Inc., and the
Mr. HATCH. Mr. President, I rise to express my support for the nomination of Carlos Gutierrez to be the next Secretary of Commerce. Mr. Gutierrez is a clear sign of the American Dream. From humble beginnings as a Cuban refugee, he has become one of the most respected and admired businessmen in America.

I believe as Secretary of Commerce, Carlos Gutierrez will continue to display the values and leadership which have been prevalent throughout his career. I have no doubt that as Secretary of Commerce Mr. Gutierrez will be able to meet any challenge facing this country in the future.

Mr. HATCH. Mr. President, I rise to express my support for Mr. Carlos Gutierrez as our new Secretary of Commerce.

Mr. HATCH. Mr. President, I rise to express my support for Mr. Carlos Gutierrez as our new Secretary of Commerce.
Gutierrez took a job driving a Kellogg van selling frosted flakes to small grocery stores.

Ten years later, he became general manager of Kellogg’s Mexico operations. Within 3 years, he turned the Mexico plant from the company’s least productive to most productive.

After stints in Asia and Canada, Mr. Gutierrez returned to the United States in 1996, and in 1999 became Chairman and CEO of the Kellogg Company.

In 5 short years, Mr. Gutierrez has steered the cereal maker into the number one spot in the U.S. cereal market. Under his leadership Kellogg has become a food industry powerhouse with industry leading sales growth.

Those who have studied his business techniques say that Mr. Gutierrez is successful because he is able to focus in on the key issues and convey his vision to everyone—from the assembly line worker to members of the board. He believes that every American should have the opportunity to succeed.

He also believes that America is, and should be, the best place in the world to do business.

Former Governor John Engler of Michigan, who has worked with Mr. Gutierrez, rightly points out that Mr. Gutierrez would be “... the most international leader that Commerce has ever had.”

Mr. Gutierrez says that one of his proudest accomplishments was helping his son and his wife become American citizens. From one American citizen to another, I can assure him the pride is mutual.

From his remarkable biography, to his meteoric success, Mr. Gutierrez is an inspiration to all. He took the American dream and ran with it—and, I should note, without ever having finished college.

I am confident that his accumulated wisdom, knowledge and skills will make Mr. Gutierrez an effective Commerce Secretary and eloquent advocate of our economic policies and ideals.

I urge my colleagues to support the nomination of this extraordinary American.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. How much time is remaining?

The PRESIDING OFFICER. The Senator from Alaska has 45 minutes remaining.

Mr. STEVENS. Has the minority no time remaining?

The PRESIDING OFFICER. Three and a half minutes remaining for the minority.

Mr. STEVENS. Is it possible to get permission to yield back the balance of the minority’s time?

The PRESIDING OFFICER. The Senator may ask consent to do so.

Mr. STEVENS. I ask unanimous consent all time be yielded back.

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

Mr. STEVENS. I ask the Chair to put the issue before the Senate.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Carlos M. Gutierrez to be Secretary of Commerce.

The nomination was confirmed.

Mr. STEVENS. I ask that the President be immediately notified of the confirmation of this nominee.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. STEVENS. I ask unanimous consent there now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ALLARD. Mr. President, I would like to exercise my right under morning business to make a comment on the Marriage Protection Amendment. Does my colleague from Montana have a question?

Mr. BAUCUS. No. If the Senator will yield, I ask him how much time he might use?

Mr. ALLARD. Less than 10 minutes.

Mr. BAUCUS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Colorado.

(The remarks of Mr. ALLARD pertaining to the submission of S.J. Res. 1 are printed in today’s RECORD under “Submitted Resolutions.”)

The PRESIDING OFFICER. Who seeks recision?

The Senator from Montana is recognized.

CONGRATULATING SENATOR VITTER

Mr. BAUCUS. Mr. President, first, I congratulate the present occupant of the chair on his election to serve the State of Louisiana in the Senate. I look forward to working with him, as all my colleagues do, and wish him luck while he is in the Senate. I know the people of Louisiana will be well served.

TRIBUTE TO ZAK ANDERSEN

Mr. BAUCUS. Mr. President, I also rise—in fact, it is the primary reason I am here—to recognize and thank a remarkable individual, a member of my team who has served our State of Montana in the Senate for more than 9 years, Zak Andersen.

Zak is leaving the post as my chief of staff to go to work for a government affairs firm that represents folks in Montana and the Northwest, The Gallatin Group.

Zak is a huge fan of that American icon Bruce Springsteen, who once said: “...the door’s open but the ride ain’t free.” The same could be said of Zak’s last 9 years.

A graduate of the University of Montana, Zak first started working for me during my 1996 reelection campaign as a door-to-door canvasser. As a sign of things to come, he was quickly bumped up to field coordinator.

After the people of Montana, in 1996, decided to return us to represent them in the Senate, Zak came to work here in my Washington office, where he quickly moved from legislative correspondent, to assistant to the chief of staff, to legislative assistant, to legislative director, and finally chief of staff.

Zak also played a pivotal role in my 2002 reelection campaign, where again the people of Montana decided to return us, at that time with more than 60 percent of the vote.

Zak, of course, is a Montanan. He has an ability to read a government, and know Montanans’ real values—our hopes, our wishes, our fears, and our desires. And he uses that almost constantly to help our State.

Zak worked his way from field staff to chief of staff in 9 years’ time. He likes to joke that he “went from garbage band to broadband” in less than a decade. That did. In the process, he racked up a list of achievements too long to do justice here, but I will name just a few. Recognizing the need for action, improving our State’s economic well-being, Zak spearheaded my economic development efforts and helped me organize the first ever Montanana economic development summit in 2000. That meeting drew more than 1,000 people to Great Falls. That might not sound like a lot of folks back here, but in Montana it is. After that, he helped organize two more economic summits, both of which were huge successes and helped the people in our State get more good high-paying jobs.

Zak also helped me bring new businesses to Montana, companies like National Electric Warranty. He helped Montana businesses grow and expand, businesses like Zoot Enterprises and Summit Design. He should know that his efforts are not lost on the people who found good-paying jobs because of his work. Zak led the appropriations efforts in our office, during which time we got important Montana economic development projects funded, projects such as the Montana II wind tunnel in Butte; the Fort Peck Interpretive Center, MonTec in Missoula and Tech Ranch in Bozeman.
Recognizing that methamphetamine abuse has become a scourge in our close-knit Montana communities, Zak helped me wage a 2-year campaign—and boy it was tough; we worked very hard to get that done—to help me get five of our counties out of the top 10 list of meth problems included in what is called the high density drug trafficking area, otherwise known as HIDTA. That is one of our great accomplishments, something of which I am proud, to help fight this scourge of methamphetamines. That has helped law enforcement officials in our State crack down on meth.

Zak also helped me work in this Chamber on big ticket legislative items such as tax cuts, Medicare improvements, and new Healthy Forest legislation. These are just a few of Zac’s outstanding achievements. But it is the intangible abilities that I will remember the most in Zak. I can say most in our office will remember those best, too.

In particular is his amazing ability to quickly analyze an issue and break it down into pros and cons, both from the standpoint of policy and of politics. There are a lot of quick minds on Capitol Hill but Zak, to me, stands out as one of the very best, one of the brightest. Undoubtedly, that quickness of mind contributes to his sense of humor, which he exudes in extremely dry and wonderful presence. Zak’s sense of humor is rare. It is remarkable. He has used it to build bridges with the Montana delegation, to keep my office train on the tracks during some of the more bumpy times, and to mentor younger staffers as they learn the ways of working in this remarkable place.

We will also remember him for his elaborate practical jokes that often involve the whole office. But beyond that, we will remember Zak for his uncanny ability to get things done and his relentless commitment to Montana. His no-nonsense style, his can-do attitude helped me and others accomplish great things for the State and most especially for our people.

A humble guy from Helena, Zak embodies Montana—a very bright, talented, committed guy, hard working, genuine, and astute, and ever mindful of the fact that he is very lucky to be from and advocate for the greatest State in the Union. He is extremely loyal.

Zak loves his microbrews, Mr. Bruce Springsteen, a gin-clear trout stream, the Oakland Raiders, record stores, and University of Montana football. Most of all, he loves his native State of Montana.

Fittingly, one of his favorite authors is Cormac McCarthy. Many of the McCarthy books are about the American West and therefore not for the faint of heart. But they are also very real, sharply punctuated, light on frills, heavy on matters of depth and critical thought—in other words, a lot like Zak.

As the pages of his life open to endless opportunity, we will all remember Zak: His remarkable abilities, his devotion to the State he loves; and his commitment to excellence in all that he does.

We will miss you, Zak. We will miss you in our office, but we are going to find you very quickly. You are still part of our team. To all of you, thank you, Zak, so very much. Montana thanks you and a grateful nation thanks you for your service.

I yield the floor.

The PRESIDING OFFICER (Mr. CONEYX). The Senator from Alabama.

(The remarks of Mr. SESSIONS and Mr. WARNER and Mr. ALLEN pertaining to the introduction of S. 77 are located in today’s RECORD under “Statements on Introduced Bills and Joint Resolutions.”)

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Hawaii is recognized.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 13 are printed in today’s RECORD under “Statements on Introduced Bills and Joint Resolutions.”)

The PRESIDING OFFICER. The Senator from Massachusetts.

DEMOCRATIC PRIORITIES AND VALUES

Mr. KENNEDY. Mr. President, today Senate Democrats introduced 10 bills that illustrate the priorities and values we intend to fight for in the coming months to meet our commitments to the American people. It is an agenda for a future of security, opportunity, and responsibility. The contrast with the Bush administration and the Republican leadership in Congress could not be greater. They say they are for ownership, but their vision means an America divided. In a society based on ownership, we are divided by winners and losers, rich and poor, a shrinking middle class, owners and those who cannot own a thing.

Republicans see the forces of globalization as a chance for greater profits at the expense of job and wage security for American families. Democrats are for opportunity for all. Our vision is for an America united to provide opportunity for all Americans and to fulfill the American dream.

We embrace the challenges of globalization not by lowering our wages but raising our skills to equip every American to compete for good jobs in the 21st century.

I will mention three areas in which Democrats have introduced bills today that reflect our values and priorities.

First, health care. It is an honor to join our Democratic leader and so many of our colleagues in introducing the Affordable Health Care Act in meeting our responsibility to the Medicare Beneficiaries Act. This Affordable Health Care Act creates our health care a commitment for all Americans to end the crisis in health care that affects every family.

Second is education. Our Nation’s future depends on ensuring equal educational opportunities for all children. We must keep the promise to leave no child behind. For Democrats, this is not just a slogan. For us, it is a moral commitment. This year alone, the Bush administration underfunded No Child Left Behind by $9.8 billion, leaving 4 million children behind. In contrast, we propose fully funding No Child Left Behind and also keeping our promises to disabled children by fully funding the Individuals With Disability Education Act. We also recognize that what we do for children’s early education and development does more to ensure their success later in school and later in life.
that Democrats will fight for this Republican leadership. 

make up for those lost under Repub-

competitiveness, improve the quality 

ways, broadband technology, and re-

breaks for companies that ship good 

cover additional workers. 


by the rules they can live the American 

The bill raises the minimum wage to 

$7.25 an hour to improve the quality of 

life for 7.5 million workers. Despite 

Democratic efforts to raise it, the min-

imum wage has been stuck at $5.15 an 

hour for 7 long years. 

And the bill will restore overtime protections for the more than 6 million Americans denied overtime pay and the guarantee of a 40-hour workweek by the Republican overtime rule. It will also expand overtime protections to cover additional workers. 

The Democratic bill eliminates tax breaks for companies that ship good American jobs overseas. It requires companies that send jobs to other countries to provide advance warning to workers and communities. 

The bill makes significant investments in America’s roads and waterways, broadband technology, and re-

search and development to increase our competitiveness, improve the quality of our lives, and create new jobs to help make up for those lost under Repub-

lican leadership. 

These are the kinds of initiatives that Democrats will fight for this year—initiatives that will expand op-

portunity, provide a secure future for our families, and improve the quality of life for all Americans. 

Jay Bybee, head of the Justice De-

partment’s Office of Legal Counsel, was 

ominated for a lifetime appellate 
court judgeship in the spring of 2002, 

before he wrote the now notorious legal 

memorandum redefining torture so 

narrowly that virtually the only vic-

tims would be dead or near death by 

victims. Mr. Bybee even went so far as 
to state that the President could sim-

ply decree that any action taken as the 

Commander in Chief was immune from 

challenge. Most people who later read 

that memo knew its own demise, not 

conclusions. But not the White House. 

Instead, when the Bybee nomination 

was not acted on by the Senate in the 

107th Congress, President Bush renom-

inated him for the same judgeship in 

the 108th Congress. Although we asked 

for Bybee’s OLC writings we received 

nothing, thus the Senate knew nothing 

about the Bybee memorandum on tor-

ture, and his nomination was con-

firmed. 

William Haynes was, and still is, 

General Counsel to the Secretary of 

Defense. As such, he had a personal 

role in deciding how far Defense Offi-

cials could go in interrogating detain-

ees. But he had a problem. High-level 
military officers and top State Depart-

ment lawyers were experienced in these 

issues and the treaties that governed 

them, and they were adamantly op-

posed to the extreme change in policy 

that he and the Secretary and the 

White House wanted. 

So he formed a “working group” 

of lawyers that excluded these dissenters. That working group’s report adopted verbatim some of the most outrageous 

parts of the Bybee memorandum. In one memo, for example, Mr. Haynes 

told Secretary Rumsfeld that 

waterboarding, forced nudity, the use 

of dogs to create stress, threats to kill 

the detainee’s family, and other ex-

treme tactics not only do not violate the Uniform Code of Military Justice, but are “humane.” 

After he did that, the White House 

also nominated him to a lifetime 
judgeship on a Federal court of ap-

peals. Fortunately, by the time the Ju-

diciary Committee was ready to vote 

on his nomination in late 2003, we had 

become aware of some of his other con-

troversial legal views, and the Senate 

did not confirm him. President Bush 

has chosen to renominate him, how-

ever, so the Senate will have another 

chance to review his role in support of 

torture. 

Condoleezza Rice has been nominated 


to be Secretary of State, and we will 

consider her nomination later this 

week. As national security adviser she 

was clearly involved in the prisoner 

abuse issues, but because of the nature 
of her position, we know less about her 

role. Two of the members of the For-

eign Relations Committee have voted 

against her nomination, and we will 

hear their full report in the coming de-

bate. 

White House Counsel Alberto 

Gonzales, as the President’s chief in-

house lawyer, was at the heart of the 
debate, inside the administration, on 

prisoner detention and interrogation. Although he says he can’t remember it very well, he apparently was the person the CIA contacted when they wanted to use extreme interrogation methods on 

intelligence agents detained in Afghanistan and 

Iraq and elsewhere. He was the one who 

went to Mr. Bybee at the Department of 

Justice to obtain the notorious 

Bybee memorandum justifying the use 

of torture. He keeps saying he doesn’t 

recall, but his office obviously helped 

Mr. Bybee develop the memorandum. 

When Mr. Gonzales received the 

memorandum, he disseminated it far 

and wide in the military and elsewhere, 

although he can’t remember how. For 

almost 2 years, Mr. Gonzales allowed 

this policy guideline to stand through-

out the Government as the administra-

tion’s formal policy on prisoner abuse. 

For almost 2 years it remained in ef-

fect, producing a situation and interrogation that the Inter-

national Committee of the Red Cross, the FBI, the Defense Intellige-

cy itself found abhorrent to the rule of 

law. When the Bybee memorandum fi-

nally came out, Mr. Gonzales at last 

attempted to distance himself and the President from it, but he didn’t quite withdraw it. 

Suddenly last month, the night be-

fore New Year’s Eve, so late that many 

of them could not make it in time 

in the next day’s paper, Mr. Gonzales 

and his Justice Department and White 

House colleagues decided that the 

memo was so clearly erroneous and its 

standards so extreme, that it should be 

withdrawn altogether and replaced by 

a gentler version. 

Members of the Senate have asked 

repeatedly for the relevant documents 

on all this. But we have not received a 

single one of the documents we need. 

Four Senate committees have now 

considered some part of this issue. The 

Foreign Relations Committee had a 

brief opportunity to question Ms. Rice 

last week, but apparently not enough 

information on her involvement was 

available to assess her responsibility. 

The Intelligence Committee is still 

waiting to hear from the CIA on its 

role in the prisoner abuses, but as far 

as I know nothing has been forth-

coming. Despite the initiatives and 

hard work of the chairman, the rank-

and-file members of the Armed Services Committee, Sec-

retary Rumsfeld and his deputies have 

managed to stonewall and slow-walk us 

right through the election, and have 

used a series of separate investigations 

to propagate the original message that 

it was just a few bad apples on the 

night shift who committed the abuses. 

We now are told that there was con-

fusion and lack of clarity in the rules 

on interrogation without any indica-

tions who was ultimately responsible, 

and without any accountability by 

those we know were involved, such as 

Mr. Haynes and Mr. Gonzales. 

THE PRESIDENT’S NOMINEES

Mr. KENNEDY. Mr. President, Jay 

Bybee, William Haynes, Condoleezza Rice, Alberto R. Gonzales—these four 

persons have three things in common. 

They were all high officials in Presi-

dent Bush’s first administration. They 

were all key participants in the shame-

ful decision by the administration to 

authorize, operate, and defend the 

prisoner abuse issues, and because of the nature of her position, we know less about her 

role. Two of the members of the For-

eign Relations Committee have voted 

against her nomination, and we will 

hear their full report in the coming de-

bate. 

White House Counsel Alberto 

Gonzales, as the President’s chief in-
That leaves the Judiciary Committee, which is now considering Mr. Gonzales’s nomination to be Attorney General. What standard should we apply to him? We know that rejection of a cabinet nominee is rare. In all of U.S. history, only 9 of over 700 cabinet nominees have been stopped in committee or withdrawn by the President, only 9 of over 700 cabinet nominees have actually been rejected by the Senate. Two of them have been nominees for Attorney General. President Calvin Coolidge’s nominee for Attorney General was rejected not once but twice and both times by a Senate of his own party.

Mr. Gonzales’s case is a rare case in which a nominee may have been directly responsible for policies and resulting practices that have been counter-productive, contrary to international standards and practices, harmful to our troops’ safety, legally erroneous and plainly inconsistent with the rule of law and the basic values which this administration prides itself on defending.

President Bush’s Inaugural Address resonated with those values last week. “From the day of our Founding,” he said: “we have proclaimed that every man and woman on this earth has rights, and dignity, and matchless value, because they bear the image of the Maker of Heaven and earth.

The choice before every ruler and every nation, he said, is: the moral choice between oppression, which is always wrong, and freedom which is eternally right.

America’s belief in human dignity will guide our policies, he said.

Americans move forward in every generation by reaffirming all that is good and true that came before—ideals of justice and conduct that are the same yesterday, today, and forever.

Those are lofty values, and all of us agree with them wholeheartedly. But they were abandoned by the White House in its decision on the use of torture, and our credibility in the world as a leader on human rights and respect for the rule of law has been severely wounded. The cruelest dictators can now cite America’s actions in their own defense.

How can we be true to our own oath to defend the Constitution, if we confirm as the highest legal officer in the land a person who may well have encouraged our basic values to be so grossly violated?

So far, Mr. Gonzales has not been responsive to our questions in the Judiciary Committee about his role. He still has time to clear the air, and I urge him to do so.

The position of Attorney General and the issues involved in this nomination go to the heart of our Nation’s commitment to the rule of law. A nominee whose record raises serious doubt about his own commitment to the basic principle should not be confirmed as Attorney General of the United States.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. BURR). Without objection, it is so ordered.

NOMINATIONS

Mr. CORNYN. Mr. President. I didn’t intend to speak this afternoon, but after listening to the comments of the Senator from Massachusetts regarding four individuals, three of whose nominations are pending before this body, I believe a brief statement and indeed a brief correction of the RECORD are necessary.

I am well aware that in politics a charge unanswered is often a charge believed. Indeed, I think the practice is not too rare that some believe if you make the same erroneous charge over and over and over again despite the fact that your opponent will tire and fail to correct the RECORD. I don’t want to be guilty of that because I believe not only do the American people need to know the truth and not be misled, the nominees whose integrity has been impugned during this all too painful and sometimes even cruel process deserve better.

Obviously, the Senate in providing its advice and consent on the President’s nominations should ask hard questions, and we should press for answers to those questions. But there does come a point where the process no longer becomes one that can be described as a search for the truth but, rather, becomes akin to harassment, and, unfortunately, I think that line has been approached.

Let me explain what I am talking about. The Senator from Massachusetts talked specifically about four individuals—Mr. Bybee, who is now a circuit court judge; Mr. Haynes, who is the general counsel for the Department of Defense; Condoleezza Rice who, as the Chair knows, we all know, has been nominated by the President to be Secretary of State, and whose confirmation we will debate tomorrow, and, finally, the name of Alberto Gonzales, currently White House counsel, having been nominated to serve as Attorney General. Those are the four individuals who are the object of his comments.

I want to be fair to the Senator from Massachusetts. Sometimes when I was listening to him I thought my hearing was betraying me. I was not quite sure what I heard was, in fact, what he was saying because it was so far from what I believe to be the case. I believe, and the RECORD will contain time if I am wrong, he used words tantamount to authorize the use of torture. He did, and I wrote this down, speak of a “for-
and Alberto Gonzales—the allegation that somehow they have been involved in a Government policy of condoning torture or authorizing prisoner abuse is just false. It is important to stand up and say so.

Our disagreements about policy, indeed, the foreign policy of this Government, whether it be authorizing the use of force or whatever the issue may be, cannot be used as an excuse to make such scurrilous allegations against public servants who I believe are trying to do their best. If, in fact, somehow this administration and these individuals who are engaged in important public policy decisions did not care one whit about what the law is, what the definition of torture is, and what the world is, that would be terrible, but it would not mean anything to them. I mean, they would not research the law. Why would they write lengthy legal memoranda? Why would they research the law? Why would they care one whit about what the law is, what the definition of torture is, and how we can avoid somehow engaging in this sort of illegal and heinous act against any human being, why would they research the law? Why would they write lengthy legal memoranda? Why would they have debates among themselves about the law? That has been what Congress prescribes—indeed, what our international treaty obligations prescribe in this area. They would not.

You would not be so scrupulous and so careful about what the law provides if you did not care about following the law. That has been what these individuals and this administration and this Government have tried to do under very difficult circumstances.

In conclusion, I hope our disagreements about some aspects of our Nation’s foreign policy, our policy in Iraq, should not be license to distort the facts and impugn the character of these nominees. Three are nominees, one already has been confirmed. We know Mr. Haynes has been renominated by the President to serve as a circuit judge. We know Condoleezza Rice’s nomination to be Secretary of State will be debated tomorrow in the Senate.

Finally, I expect on Wednesday Judge Alberto Gonzales will be voted out of the Judiciary Committee and that nomination will soon come to the Senate.

It appears the opponents of this administration and its policies will pass no opportunity to continue to repeat false charges which cannot be borne out by the facts and which I think need to be corrected.

I yield the floor and suggest the adjournment of the quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

The RESOLUTION. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I rise to speak to the American people about the values and priorities of the Senate Democratic caucus. Today Senate Democrats introduced 10 ambitious leadership bills that will make our country more secure, expand opportunity for all, and honor our responsibility to future and past generations.

The Democratic agenda stands in stark contrast to the priorities advanced by Republicans. Democrats understand that putting America’s security first means providing troops and their families with the resources they have told us they need to protect our freedom. Where Republican mismanagement has put our country’s security at risk, Democrats will stand with our troops and step up efforts against terrorists by targeting and shutting down the institutions that create them. Where Republicans have stood with big corporations and put the needs of the special interests ahead of the American people, Democrats will work to expand opportunity for families by bringing down health care costs, strengthening education, and creating good-paying jobs.

Democrat judges will promote fiscal responsibility in Washington with a return to common sense budgeting. But our most urgent priority is to protect our Nation’s security. That is why we will stand up for our troops. We believe that putting America’s security first means standing up for our troops and their families. We will work to increase our military end strength by up to 40,000 by 2007, and we will create a Guard and Reserve bill of rights to protect and promote the interests of our dedicated citizen soldiers. That includes making sure our troops have the body armor and equipment they need and that their families receive health care and their pay on time while their loved ones are serving abroad.

This bill would increase survivor benefits from $12,000 to $100,000 for their families, if, God forbid, a loved one loses his or her life while serving our country.

We will also target the terrorists more effectively. We will keep America secure by stepping up the fight against the radical terrorists. We will work to increase our special operations forces by 2,000 to attack the terrorists where they are and to protect our freedoms here at home.

Democrats are also united to ensure that the world’s most dangerous weapons stay out of the hands of terrorists. We will expand the pace and scope of programs to eliminate and safeguard nuclear materials, enhance efforts to keep these and other deadly materials out of the hands of terrorists, and assist State and local governments in equipping and training those responsible for dealing with the effects of terrorist attacks involving weapons of mass destruction.

When our veterans come home, we will not abandon them. We will keep our promise to them. We now have a new generation of veterans returning from Iraq and Afghanistan, and we must ensure that all veterans get the health care they deserve. We will make sure that no veteran is forced to choose between a retirement and a disability check.

We will also make the same commitment to the soldiers of today that was made to past veterans with a 21st century GI bill. We understand that one of the most effective ways to increase opportunities for our families is a high quality, good-paying job. The promise of America is that if you work hard and play by the rules, you should have a real opportunity to provide for yourself and your family. For too many Americans, this promise is out of reach today. We must ensure that it is within their grasp.

We must expand economic opportunity for all Americans by protecting American workers and ensuring that we are creating good jobs for today and for the future. Our plan creates new jobs with an expansion of infrastructure programs, encourages innovation, and ensures fair wages. It also eliminates tax incentives for companies that move jobs overseas. It ensures that we enforce our trade policies.

The Stabenow-Corzin bill ensures fair wages for our American workers. It restores overtime pay to 6 million workers and increases the Federal minimum wage over the next 2 years so that we can ensure a livable wage for every American worker. These are the people who serve our food and stock the shelves of our local grocery stores, care for our children and our elderly parents, and it is incredibly important that we honor, respect, and support them and the dignity of work.

It also provides relief to multi-employer pension plans to make them more solvent. These plans are used by millions of people and help provide pension benefits to an estimated 9.7 million American workers. The Stabenow-Corzin bill creates good jobs for today and new jobs for the future, with an expansion of infrastructure programs and the encouragement of innovation.

Across America, thousands of infrastructure projects, from our smallest rural communities, to our biggest cities, await the Capitol to move forward. Making these investments in our roads, bridges, and buses, will enable our quality of life to improve and protect public health and safety. These investments will also create a huge boost to
our economy. For each $1 billion in investment, we create 47,000 good-paying American jobs.

We also need to make investments in technology. Too many communities, mostly in rural and economically disadvantaged areas lack access to broadband Internet service. More and more, Internet access is a critical part of our economy and our schools. This bill expands broadband access to those underserved areas by allowing broadband service providers to immediately recoup half of their investment in equipment to provide broadband access to rural and underserved areas. This is not just the right thing to do, it is the smart thing to do. We are a nation of innovators, of ideas. The key to our economic strength is our leadership in science and technology.

The U.S. is losing ground today to our foreign competitors. Research and development helps create higher quality jobs here, producing higher productivity among American businesses.

It makes permanent a tax credit for entities that increase their research activities, which is so critical; and it makes it available for collaborative partnerships, for research done by a group of businesses or other entities. We also want to ensure that we continue to lead and educate future leaders in science and technology. Our bill also supports increases in federally funded research at the National Science Foundation, the Office of Science at the Department of Energy, the National Institutes of Health, and the National Institute of Science and Technology, as well as investments in math and science and technology programs at our secondary education institutions.

The Stabenow-Corzine bill eliminates tax incentives for companies that move jobs overseas—a critically important feature today for workers in every State, and I would certainly say in my State of Michigan, where we make things. We make things and grow things and do it well, and we don’t want to see incentives in our Tax Code for companies to move jobs overseas.

We must eliminate tax incentives that actually give companies a tax incentive to move production facilities and jobs overseas. It doesn’t make sense to support a company for moving jobs overseas and, in effect, for pushing the promise of America farther away, farther out of reach.

Let me give you an example. In Greenville, MI—I have spoken about Greenville many times on the floor—is Electrolux. In Greenville, MI, they had three different shifts going and added over $100 million in new investments in equipment at the Greenville Electrolux plant. They are efficient, effective, and they are doing the job. They are making refrigerators. Electrolux decided that they could make a bigger profit if they moved the plant to Mexico and paid $1.57 an hour and no health benefits. We are losing 2,700 jobs as a result of that and we, unfortunately, have incentives in the law today that encourage that to happen. That is wrong.

We need to tackle the issues of health care, and we are doing that in the Senate. We are working on prescription drugs and a lower cost of health care for our businesses. Ultimately, we cannot compete and have a middle class in this country if we are telling everyone they need to work for $1.57 an hour in order to have a job and without incentives for their businesses to move to another country. Our bill would require companies to immediately pay tax on the profits they earn abroad for products that are imported back to the United States. We think that is fair.

The Stabenow-Corzine bill ensures that America has a trade policy that addresses our now record trade deficit by enforcing our trade agreements, maintaining a level playing field, and helping workers who have lost their jobs due to unfair labor practices of other nations. We are determined to pursue a trade policy that protects American workers and addresses our record trade deficit.

This bill requires the administration to identify the most important export markets that remain closed to U.S. products and provides the tools needed to open them. As I have said so many times, if we create a level playing field and enforce the rules. We talk a lot about that. We have an opportunity in the 109th Congress to put in place those opportunities and mean it for our children.

That is why we are going to keep our promise to our children by increasing support for preschool education, fully funding No Child Left Behind, and improving its implementation.

We are committed to finally making the Federal commitment to children with disabilities. How long have we talked about that on the Senate floor? We will address the shortfall of math, science, and special education teachers by creating tuition incentives for college students to major in these critical fields. We will help expand educational opportunities for college by providing relief from skyrocketing college tuition, increasing the size and access to Pell grants, and supporting proven programs that encourage more young people to attend and succeed in college.

We will also work to make health care more affordable. Spiraling health care costs are putting the opportunity of America at risk, making it harder for families to buy health insurance and placing a difficult burden on our small and large businesses, our manufacturers, certainly.

We will address these concerns by making prescription drugs more affordable. How often have I spoken about this on the Senate floor? We will make prescription drugs more affordable through the legalization of prescription drug reimportation—in other words, allowing the pharmacists in America, in
Michigan, to do business with pharmacists across the border in Canada and in other places where we know it can be done safely.

In our legislation, we will be making sure prescription drugs are safe by ensuring that drugs are monitored after they are approved for use. We will ensure all children and pregnant women will have health care. We understand how critical it is that we protect Medicaid and work with the States across this country to make sure that health care is available through Medicaid.

We will also reduce the growing cost of health care to small businesses by offering tax credits, while also modernizing health care to cut costs for patients and businesses.

While we are lowering health care costs, we are going to revamp the last Congress’ Medicare bill—if we have the opportunity to do so, that is certainly our wish as Democrats—and take the special interests out of the Medicare bill that makes no sense at all that prevents Medicare from negotiating the best possible price for our seniors.

While we will eliminate the slush fund for HMOs, we will also improve the prescription drug benefit by putting up the current coverage gap where seniors pay a premium but do not get a benefit.

I am told that if, in fact, we negotiated in Medicare the same price cuts that we got for the veterans, we would not have a gap in the Medicare prescription drug law at all. There would not be a gap in benefit. We need to make that change so our seniors have the very best possible Medicare prescription drug benefit.

We as Democrats will work to lower Part B premiums so premium increases are not as steep as the one that took effect in January. We will address incentives that encourage employers to drop retiree benefits and ensure that our seniors will not be forced into HMOs while other seniors transition into a new benefit.

In the United States, the foundation of our incredible democracy is the fundamental right to vote. That is another important part of the legislative package we have put forward today. It does not matter if one is rich or poor, black, brown or white, all Americans have the right to one vote. It is the great equalizer. Walking and waiting in front of the voting booth, each one of us walks out as an equal. Unfortunately, we have had major problems in our voting systems in the last few elections, as we all know. We have determined, as Democrats, to reform the voting system in this country to create federal standards for our elections and to be able to add verification, accountability, and accuracy to this system. Together we should be moving as quickly as possible to do this.

Our legislation increases access to the polls with election day registration, shorter lines, early voting. The bill also aims to modernize our election equipment and increase impartiality and provide the resources to our States to implement the bill.

While our agenda is ambitious, we have a plan to pay for every single initiative we are proposing at the beginning of this session, our vision of keeping America strong.

Unfortunately, in the past 4 years, colleagues on the other side of the aisle and the administration have turned a large surplus, in fact the largest surplus in the history of the country, into the largest debt. We know that fiscal mismanagement today only leads to greater problems for our children and our grandchildren. It is our responsibility to address the fiscal irresponsibility of the current administration by imposing discipline today and we invite our colleagues on the other side of the aisle to make that a new priority, a fresh priority, in this new Congress. We are united to strengthen our budgeting rules that require the Government to live within its means.

The bottom line is that we today, the first day, we can introduce bills in the new session, have come together as Democrats to put forward our vision of keeping the promise of America. It is rooted in security. We must make our families be safe. Our families must be safe. We must make sure we are providing all that we must for our troops and those who have served us and are now our veterans.

We are also committed to creating opportunities. Let’s work hard and play by the rules, care about our children, to create opportunity to be successful. We want everyone to dream big dreams and be able to reach for the stars and touch them and be successful within the American dream.

We also understand that when we create opportunity, with that comes responsibility. We each have responsibility to step up and work hard, but we also know we have responsibility for each other. As parents to our children to create the security they need, the opportunity they need, and to instill responsibility in them, and that as a community we have responsibility one to another, just as we do for our family, and our country has a responsibility to make sure those opportunities are present.

This is an important day. It is the beginning of the new session, a new opportunity. We stand ready to work with the administration and our colleagues on the other side of the aisle to truly keep the promise of America, not just for some but for everyone in our country who is working hard every day and counting on us to make sure that dream is available and that promise is kept for them and their families.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

PRESCRIPTION DRUGS

Mr. DURBIN. Mr. President, many people recall that over a year ago there was a debate on the Senate floor about the cost of prescription drugs. It was a lengthy debate, and it involved a lot of concern about the fact that a lot of senior citizens find the life-protecting drugs they are taking to be too expensive.

We have known for a long time that Medicare, a very valuable Federal Government program, has been more than miraculous in its results. When it was instituted during the term of President Lyndon Johnson, we promised it would help seniors pay for their medical bills and improve the quality of their lives. It has done that and more. It has become an extremely valuable program because seniors have used Medicare for access to doctors and hospitals, and the proof is in longevity. Seniors are living longer. They are getting better medical care. It was truly one of the best Government programs ever created, but there was a gap in those programs. It didn’t cover prescription drugs for those who were not in the hospital. So seniors found that new drugs that kept them healthy and out of the hospital were too expensive. Some couldn’t take the drugs because they couldn’t afford them. Others had to choose between terrible life choices between their lifesaving drugs and basic necessities of life.

For a long time we have talked about establishing under Medicare a prescription drug program that would help seniors—those who are not in the hospital and who also qualify under Medicare. The debate got started, and it looked promising. There was the belief that we were finally moving to a goal that we have talked about for a long time. Unfortunately, during the course of the debate there were political forces at work in Washington. That is not unusual. The largest political force at work was the pharmaceutical drug industry. They understood that if we were to allow Medicare to bargain for senior citizens in America, that power would force the drug companies to reduce their cost, so the pharmaceutical companies, one of the most powerful lobbying organizations in Washington, successfully lobbied the Bush administration and supporters of the bill to prohibit Medicare from creating a drug benefit program under Medicare which would hold the drug companies accountable for cost increases.

They got the best of both worlds. They not only could continue to sell expensive drugs to seniors, there is no pressure on them to reduce the cost. Drug companies are very profitable, and they understood that with this change in the law, they would continue to make enormous sums of money off of seniors and the Government for a long time to come.

Some of us who voted against the program as presented by the President suggested that, unless there was some cost containment here, this program would break the bank; it would cost too much; drug prices would go up, and
the Federal Government could not appropriate money fast enough to take care of it.

Then they started describing the prescription drug program, and it quickly reached the point that even a Harvard trained lawyer couldn’t understand what it was all about. I have sat down with seniors in Illinois and tried to explain to them what this prescription drug plan was all about, and after a while they threw up their hands and said: Senator, wasn’t there an easier way to do this? And the honest answer was: Yes, but we didn’t choose that easier way.

Because of some budgetary considerations and political considerations, we created an extremely complicated program for senior citizens. That program ultimately did not reach a point where seniors approved of it. In fact, most of the seniors in Illinois who I talked to are not only skeptical of this program, they are critical of it. They are not sure it will help them.

The administration—the President—was very smart. He decided to postpone the startup of this program until after the last election. He knew, and I am sure we all do now, that when this program is presented to seniors and asked to see just how bad it is, how complicated it is, how uncertain it is, and because of those uncertainties many of them will be critical of the Congress that enacted the law and the President who presented it to us for enactment.

So at this point we have a problem before us, a program that is about to go into effect which has uncertain monthly premiums, has a so-called donut hole, which means it covers drugs up to a certain point in their cost and then leaves the individual senior citizens on their own for a period of time as they spend the money out of pocket and then comes back to cover them again. It also has some curious provisions where seniors cannot buy supplemental insurance to make up the deficiencies in the prescription drug bill. They are banned, prohibited. It also expressly says Medicare cannot pay for a health savings account, which means it covers medical expenses but it can drop coverage of your drug plan.

But I think seniors see through this. They understand that what they are looking for is a prescription drug plan the President is proposing, and one of these companies deciding to have to spend $300 million to explain it to them. It is a map that shows these regions. We are going to have to spend $300 million to explain to seniors what region they live in and whether they are going to have prescription drug coverage in each of these regions.

Do you remember when there was a discussion about the Clinton proposal for dealing with the cost of health care? Senator Dole and others came to the Senate floor with this flowchart which showed a spaghetti mess of lines going every single direction. That applies as well to this prescription drug benefit from the Bush administration. Each of the 34 regions on the map that you showed you will have at least 2 private options for prescription drugs, either a prescription drug plan or an HMO. If there are two plans in each region, it means instead of the Secretary of Health and Human Services negotiating on behalf of 41 million seniors for lower drug prices, pharmaceutical companies will be negotiating with 68 private companies on behalf of seniors.

Think about your negotiating power when the number of people you are representing goes down, as the power of the pharmaceutical companies goes up. What is worse is that private plans can change their drug formularies after seniors sign up, but the seniors are locked into it. That is right. If you do not have a prescription drug plan the President is proposing, and one of these companies decides it is going to stop carrying the drug that the doctor told you that you needed, you are still stuck with that prescription drug program you signed up for. So if you do your research and decide on a plan in your area because it offers a low price for a drug you are taking, you are locked into that plan, but it can drop coverage of your drug during the year.

The regulations released on Friday also govern bidding by HMOs wanting to contract with Medicare. The HMOs are divided into 26 regions. Although most seniors are happy to receive their benefits directly through Medicare, we will spend $4 billion over the next 10 years to expand coverage by HMOs. The Republicans who passed this argued that the HMOs and private insurance companies could do things more effectively and efficiently.

Why is this all so complicated and so costly? Because when the Medicare prescription drug benefit was designed, it was with the pharmaceutical companies and the HMOs in mind, not the seniors of America. Instead of simply offering a prescription drug benefit through Medicare, though Medicare has bulk prices, we divided the country into 34 pharmaceutical regions. This is a map that shows these regions. We are going to have to spend $300 million to explain to seniors what region they live in and whether they are going to have prescription drug coverage in each of these regions.

As bad as this bill was, we were waiting for the regulations written by the Bush administration which would spell out the details of how this process will work. Last Friday the Bush administration released 1,500 pages of new rules and regulations related to the new Medicare prescription drug program—1,500 pages. I can remember when President Reagan showed up for the State of the Union Address with a huge copy of a bill we had just passed, an appropriations bill, slamming it on the desk saying what an embarrassment it was to the American people that they would have a bill of such complexity you could not understand. Here we have the regulations for the prescription drug bill, an already complicated bill, 1,500 pages in length. When you look at the details of this prescription drug benefit, you understand why many senior citizens are skeptical.

Sally Mitchell is a 66-year-old widow who lives in Aurora, IL, and takes three prescription medications every day. She told the Chicago Tribune that she: wished Medicare would come up with something that would be easier for people to understand and use.

That is not an unreasonable request from Mrs. Mitchell. In her words, she went on to say: If it’s too much work and too much stress, at my age it’s not worth it for me to just save a couple of dollars.

That is what many senior citizens have found. As this administration came forward with discount cards and prescription drug benefits, a lot of them have said it is not going to work. When you take a hard look at the philosophy driving this complicated bill, protecting this private interest group, you get further insight into the concept of the ownership society. This is the new concept. This is the brave new world we are hearing about, which says that basically the Government should not be making certain that there is competition for these drug companies. Let them own their products. Let them sell their products. The Government should not be standing in the shoes of the senior citizens who need these prescription drugs, understanding the complexity of the system and the cost of the system. No, no, the Government should step aside. Let the seniors own the program.

I believe a lot of seniors are going to disown the program. The President tells us that turning America into an ownership society will solve our retirement security problems. Just privatize part of Social Security and give Medicare beneficiaries a voucher so they can buy private prescription drug coverage and the problems are solved.

But I think seniors see through this. They understand that what they are hearing from the administration about Social Security and Medicare does not give them peace of mind. If there are challenges in Social Security, they are in the distant future, as I said in an earlier floor statement: 37 years from now. If we are to make changes, they should be changes that don’t cut the benefits for Social Security retirees and beneficiaries. They should not create an additional national debt of $2 trillion more, but that is the projection coming out of the President’s suggestions.

We will wait for the details. In fairness to the President, he should present this to us in its entirety. It is important that we understand what we are hearing from the administration about Social Security and Medicare prescription drug programs, but here is the reality: 1,500 pages of regulatory gobbledegook, big guaranteed profits for the pharmaceutical companies and insurance companies, and precious little savings for people like Sally Mitchell of Aurora, IL.
wrong with this picture. If they are supposed to be so efficient, why do they make it a Federal subsidy? The sponsor of the bill couldn’t explain it. The private plans are 7 to 9 percent more expensive than Medicare fees for service and less efficient. And we are going to subsidize a program we cannot compete with whatever Medicare has to offer?

PacifiCare CEO Howard Phanstiel told Bloomberg News over the weekend: “We are encouraged that CMS continues to demonstrate its commitment to medical and business partners with the private sector.” But isn’t it Government agencies’ first obligation to seniors and the citizens of this country rather than to the businesses that will profit from this new arrangement?

Let us take a look at Mr. Phanstiel and his colleagues in the HMO industry. He made more than $3 million in the year 2003, the year we passed the Medicare bill. As a result of this bill, many companies and many others like it will make even more money because Mr. Phanstiel’s company will have access to some 700,000 Medicare beneficiaries in addition to the ones he currently serves.

When you look at compensation, the CEO of Aetna is $8.9 million; Larry Glasscock’s compensation, $6.8 million. Here is one CEO who earned $21.6 million. Look at what these HMO CEOs are making. And now we are not going to cut into their profits but increase them.

When Mr. Phanstiel sent this nice thank-you note to CMS, a Federal agency, and said they are continuing to demonstrate their commitment to be a good business partner, it means even more money and profits for the HMOs at the expense of senior citizens.

When it comes to pharmaceutical companies, this chart tells you what happened to the Fortune 500 companies in America. This is the analysis of the 2002 people you will, at some turn on revenues. The No. 1 industry, pharmaceuticals; return on assets, No. 1 industry, pharmaceuticals.

When you turn on the television and you can’t escape another ad for the “little purple pill,” let me tell you that company is spending more money on advertising than it is on research to find new drugs. They are trying to create an appetite and desire among American consumers to buy drugs they don’t need; too expensive drugs, I might add. In this situation, you are going to find pharmaceutical companies doing even more business because the Medicare prescription drug plan says they don’t have to compete.

Is the idea of asking drug companies to reduce their costs to help people under Federal programs a radical, Socialist, Communist, collectivist idea? I don’t think so. Go to the Veterans’ Administration. That is exactly what they do. They call in the drug companies and say, you have a lot of veterans in America who are going to VA hospitals to pick up their drugs through a program we are offering. If you want to sell drugs to them, you have to give us your best price. And the American drug companies line up and reduce their costs for VA. They don’t scream and they don’t holler and squirm away. They like to deal. And the VA serves the veterans. Why is it we can’t do the same thing for Medicare? It is just that simple.

The fact that we didn’t is the reason the administration last Friday had to put 1,500 pages of regulations together on an already complicated bill to try to explain what the prescription drug benefit is. That, frankly, is not what it should be. We started off understanding the need. We passed a bill that didn’t meet that need. Now, in the name of the ownership society, we are saying to people: You own the right to be virtually defenseless in bargaining with pharmaceutical companies and HMOs.

Is that what we are here for—to make certain their profitability goes through the roof at the expense of seniors who can’t afford lifesaving drugs? I don’t think so.

The time will come—and I hope soon—when we will have reforms of this Medicare prescription drug program. When we do, let us keep our first obligation to our seniors.

I yield the floor.

HONORING OUR ARMED FORCES

SERGEANT THOMAS EUGENE HOUSER

Mr. GRASSLEY. Mr. President, I rise in remembrance of a brave Iowan who has left his countrymen to join the ranks of those who have paid the highest price in the defense of freedom. Sergeant Thomas Eugene Houser was a native of Council Bluffs, IA and was killed on January 3, 2005, in action against enemy forces in the Al Anbar Province of Iraq. He was twenty-two years old.

An active young man, SGT Houser participated in football, wrestling, and track while attending St. Albert’s Catholic High School and is remembered by his family and friends as a compassionate soul who, as his mother says, could “talk to anyone.” As a boy, he dreamed of following in the tradition of military service set by his father and grandfather, a dream which he fulfilled courageously as a member of the 1st Marine Division.

I ask my colleagues to join me and all Iowans in remembering SGT Houser. My prayers go out to his family and friends who feel his loss so deeply. Such men as Thomas Houser inspire us to hold in ever higher esteem the ideals of freedom and service. His valor shall certainly not be forgotten.

PRIVATE FIRST CLASS GUNNER BECKER

Mr. JOHNSON. Mr. President, I rise to pay tribute to PFC Gunnar Becker, a member of the United States Army, who died on January 3, 2005, while serving in Operation Iraqi Freedom.

PFC Becker was a member of the 63rd Armored Regiment, 1st Infantry Division.

Answering America’s call to the military, PFC Becker joined the U.S. Army shortly after graduating from Aetna Letcher High School in 2003. His friends remember him as a good-natured, outgoing person with boundless enthusiasm and confidence to match. Kelvin Buie, a friend, remembers him as always being able to put a smile on people’s faces. Kelvin said, “He knew how to make a person laugh and have a good time, because that’s what he was all about, having a good time.”

PFC Becker served our country and, as a hero, lived as a proud member of our Armed Forces. He served as a model of the loyalty and dedication that comes with preservation of freedom. The thoughts and prayers of my family, as well as our Nation’s, are with his family during this time of mourning. As well, our thoughts continue to be with all those families who have children, spouses, parents, and other loved ones serving overseas.
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January 24, 2005

CONGRESSIONAL RECORD—SENATE

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Beech Grove, Army PVT Cory R. Depew, 21 years old, died on January 4 when the Stryker military vehicle he was riding in was struck by rocket-propelled grenades just west of Mosul, Iraq. With his entire life before him, Cory risked every- thing he had to fight for the values Americans hold close to our hearts, in a land halfway around the world.

After graduating from high school, Cory went on to pursue a dream he had been working toward since he was in the eighth grade. In September of 2003, Cory made his dream a reality by enlisting in the United States Army. Cory’s mother, Sherry Ann, recalled her son’s determined spirit when speaking to the Indianapolis Star saying, ‘He was going to the military, he wanted to serve his country.’ He was a hero. He gave his life for this country.”

Cory was the 44th Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. He was as- sociated with the 1st Battalion, 24th Infantry, 1st Airborne Brigade Combat Team, 1st Infantry Division, based in Fort Lewis, Washington. This brave young soldier leaves behind his mother, Sherry Ann May; his son, Brendan Favre; his brothers, Lacy and Jeremy; and his grandfather, Austin Hall.

Today, I join Cory’s family, his friends and the entire Beech Grove community in mourning his death. While we struggle to bear our sorrow over this loss, we can all pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Cory, a memory that will burn brightly during these continuing days of conflict and grief.

Cory was known for his dedication to family and his love of country. When reflecting on Cory’s life, his mother told the Indianapolis Star that her son’s attributes of strength, integrity and courage were displayed while he was home on a two-week leave only a few months ago, “his wize guy” sense of humor, his love of children, his hard work.” During his short break, Cory spent time playing with his son, Brandon and volunteered to help build a new garden at his church, a place where his mother and many others now go to find solace. Today and always, Cory will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Cory’s sacrifice, I am reminded of President Lincoln’s remarks as he addressed the families of the fallen soldiers in Gettysburg: “We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.” This statement is just as true today as it was
nearly 150 years ago, as I am certain that the impact of Cory’s actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Cory R. Depew in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Cory’s can find comfort in the words of the prophet Isaiah who said, “He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.”

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Cory.

LANCE CORPORAL ERIC HILLENBURG

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Hendricks County. LCpl Eric Hillenburg, twenty-one years old, died on December 23 during a patrol when he was struck by small-arms fire in Fallujah. With his entire life before him, Eric risked everything for the values Americans hold close to our hearts, in a land halfway around the world.

After graduating from Chapel Hill Christian School with honors, Eric went on to become a Marine, a dream he first set his sights on at the young age of 14. According to family and friends, Eric followed a long-standing tradition of service as his family has proudly served our country in every conflict since the Civil War. When reflecting upon the loss of his son to members of his congregation at Hope Baptist Church, Rev. Hillenburg expressed his deep sense of pride and patriotism saying, “When I see that flag flying from now on, it will mean more to me. Eric will be my son.” According to the Indianapolis Star, the congregation stood and applauded these heartfelt remarks. I stand here today to express the same sentiments of gratitude for Eric’s sacrifices and for those made by the entire Hillenburg family on behalf of our country.

Eric was the 43rd Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. He was assigned to the 3rd Battalion, 5th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, California. This brave young soldier leaves behind his mother, Pamela; his father, Jerry; his sister, Erin; and his brother, Kevin.

Today, I join Eric’s family, his friends and the entire Indianapolis community in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Eric, a memory that will burn brightly during these continuing days of conflict and grief.

Eric was known for his dedication to family and his love of country. Today and always, Eric will be remembered by family members; friends; members of the family; community in mourning his death. As I search for words to do justice in honoring Eric’s sacrifice, I am reminded of our Lord’s words as he addressed the families of the fallen soldiers in Gettysburg: “We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.” This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Eric’s actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Eric Hillenburg in the official record of the United States Senate for his dedication to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Eric’s can find comfort in the words of the prophet Isaiah who said, “He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.”

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Eric.

CANADIAN SOFTWOOD LUMBER DISPUTE

Mr. CRAIG. Mr. President, I rise today to discuss the latest developments regarding the Canadian softwood lumber dispute. With yet another curious and ultimately inconsequential lumber unfair trade determination due today at the behest of a NAFTA dispute panel, it is important to place this matter in proper perspective.

Would the distinguished Senator from Montana and my colleague from Idaho engage in a colloquy with me concerning the Canadian softwood lumber dispute?

Mr. BAUCUS. I would be pleased to engage in such a colloquy.

Mr. CRAPO. I would also like to join my colleagues in a colloquy on this matter.

Mr. CRAIG. The Commerce Department has found repeatedly that Canadian lumber is subsidized and dumped. World Trade Organization and NAFTA dispute settlement panels have definitively rejected Canada’s long-time arguments that its underpricing of timber cannot be deemed a subsidy. The panels have also upheld findings that Canadian lumber is unfairly dumped in the U.S. market. The International Trade Commission has found repeatedly that the unfair imports threaten our industry with harm.

President Bush was well prepared to answer the Canadian Prime Minister in the last meeting. He told the Prime Minister that the problem of subsidies and dumping is caused by Canada, and the solution lies with Canada, unless Canada wants the solution permanent or the subsidies and the dumping. In over two decades, Canadian officials have not gotten the message, at least not in a way that takes, that this problem will not be resolved by Canada’s investing hundreds of millions of dollars in legal fees on more than 30 Washington law firms to circumvent U.S. laws in countless appeals to the WTO, to NAFTA panels and to the U.S. courts—several more were filed just this month. And it offset to the unfair practices, the U.S. timber industry has grown up in Canada to mount PR campaigns in the United States.

The U.S. timber industry vigorously supports the administration’s view that the unfair Canadian problem could most appropriately and productively be resolved through negotiations—although perhaps there just ought to be permanent duties in place. But the U.S. timber industry is taking the statesmanlike high road, and I support it. Some vested interests in Canada do not see this, and prefer endless litigation, probably based on misguided advice that this will be productive from those who have made a living defending Canadian subsidies.

Mr. CRAPO. Specifically, the problem remains that the market is grossly distorted by Canadian unfair trade practices. Absent termination of or an offset to the unfair practices, the U.S. timber industry will be severely impacted by subsidized and dumped Canadian imports. We in the Congress have been assured that those responsible in the administration will not allow this further injury to our industry.

A solution can be either border measures imposed by the United States or Canadian border measures agreed to with the United States pending adequate Canadian timber policy reforms.

The Bush administration has concluded that the November 2004 determination of the International Trade Commission that Canadian imports threaten the U.S. industry with injury represents an independent basis authorizing and necessitating retention of the countervailing and antidumping duty orders. The United States has faith in winning the NAFTA Chapter 19 lumber dispute proceeding on the injury issue, but even a negative outcome before the committee would not be the end of the matter.

The Bush administration has concluded that duty deposits, amounting to approximately $3 billion and growing daily, cannot and will not be returned absent a negotiated settlement
between the Canadian and U.S. Governments. The panels can provide prospective but not retroactive relief. In any event, these funds are rightly due under U.S. law to the injured domestic timber industry. If there is a negotiable settlement, the funds can be apportioned fairly as part of the settlement.

There is zero likelihood that the countervailing duty, anti-subsidy, order will disappear absent settlement of the lumber subsidy and dumping issues, no matter how often a NAFTA panel tries to accommodate.

The U.S. right to challenge Canadian log export restrictions at the WTO is clear under the WTO, and Canada is clearly in violation of its WTO obligations. I understand that the Bush administration is evaluating this issue.

I also understand that the U.S. timber industry intends to bring a constitutional challenge to NAFTA dispute settlement if the lumber dumping issue is not resolved. The future of U.S. sawmills and millworkers cannot be allowed to be ruined by outlandish decision-making by NAFTA dispute panels and a panelist's service with an obvious, undisclosed conflict of interest.

Mr. BAUCUS. I agree completely with you. As suggested, a NAFTA dispute panel is requiring that the Commerce Department issue today yet another revised version of the original 2002 lumber-subsidy determination. Given the panel's pattern of overreaching, it may be a relatively low subsidy estimate. If so, this will be trumpeted in headlines across Canada as a victory for Canada's lumber policies. Before all those editorial writers seize on this supposed victory, they should understand that this determination will have absolutely no legal effect. It is the Commerce Department's December 2004 findings of a subsidy of over 17 percent and dumping of 4 percent that controls. Hyping the January 24 decision as having any meaning per se is a disservice to Canadian interests, which lie in a mutually beneficial negotiated settlement.

Nothing can change the facts. The Canadian provinces provide timber to their lumber companies for a fraction of its value. This harms not only U.S. sawmills, millworkers and family forest landowners, but also the Canadian forest.

Environmental groups have long decried the overharvesting of timber caused by undervaluing the resource.

WIND TRANSMISSION FUNDING

Mr. DORGAN. Mr. President, I rise to discuss funding for a wind transmission study that was included in the fiscal year 2005 Omnibus Appropriations bill signed into law last December. As a member of the Senate Energy and Water Appropriations Subcommittee, I appreciate the efforts of Senators DOMENICI and RISI, the chairman and the ranking member of our subcommittee, to include $500,000 for the Western Area Power Administration, WAPA, to continue its work on the placement of additional wind capacity in the Dakotas. They have generously provided funding for similar work for the past two years, and I am glad these efforts will be continued during this coming fiscal year.

North Dakota, known as the “Saudia Arabia” of wind. The Department of Energy has long identified North Dakota as having the greatest wind energy resource and potential for wind generation development in the lower 48 States. During my time in the Senate, I have been pushing hard on a number of fronts to develop our wind energy resources. For example, I have been a strong supporter of the Renewable Portfolio Standard, RPS, which requires utilities to produce 10 percent of their electricity from renewable energy sources by 2020.

In addition, I believe the Federal Government should be a leader in this area and develop a policy of purchasing electricity from renewable energy sources.

Last February, I hosted the Fifth Annual Wind Energy Conference with the Energy and Environmental Research Center at the University of North Dakota to further promote this clean and limitless energy resource. Wind energy is a major issue for the Nation. Last year, I attended this successful event, which attracted 436 people from 30 States and three Canadian provinces. Last year, the conference included a second day of events because of the overwhelming interest in wind energy. As a result of the wind energy industry's growth, North Dakota's skyline and economic future are forever changing and progressing forward. We will be doing another conference in February 2005, which more broadly embraces renewable energy in the Upper Midwest.

Despite my continued efforts to increase the use of wind as an energy source, North Dakota faces many transmission challenges in moving wind energy to other parts of the country. I have held field hearings in North Dakota on these issues and have also supported the development of new transmission technologies. While the Senate has wisely included funding for the last several years for WAPA to make some progress on these transmission problems, the fact remains that more needs to be done. WAPA and others have done a number of general studies on this issue and I think the next step is to fund two test projects. I would use the funding earmarked in FY2005 for an Environmental Impact Study, EIS, that would allow transmission expansion for wind generation to be placed in North and South Dakota and should use the remaining funds to support specific demonstration projects in the region.

With respect to site-specific projects to support wind development for future electric generation, I believe that WAPA should first develop parameters for determining what constitutes a bona fide wind project. In doing this, WAPA should ensure that projects meet the following requirements: a minimum period of at least one year; minimum anemometer height of at least 40 meters; multiple monitoring points allowing calculation of wind shear; a defined system interconnection point and wind right easements required for the proposed project. To make these limits less expensive, I would expect any proposed project to include a 50-50 cost share provision. It is my hope that WAPA will be able to support projects that will accurately determine the transmission requirements and costs associated with the installation of specific wind and coal generation projects.

Following this guidance, it is my expectation that WAPA will use this funding to make real progress on these transmission problems in the next fiscal year, and provide wider benefits to the large region of the U.S. served by WAPA. After all, WAPA was created to market hydropower, a renewable energy resource. Wind is the next step.

FISCAL RESPONSIBILITY FOR A SOUND FUTURE ACT

Mr. CONRAD. Mr. President, the Fiscal Responsibility for a Sound Future Act, S. 19, would help restore budget discipline and fiscal responsibility to our Nation's finances. Given the Federal budget's dramatic swing from record surplus to record deficit and debt over the last few years, it is vital that we restore the strong budget enforcement mechanisms that have worked in the past.

This legislation would return us to a path of budget discipline by restoring a strong pay-go rule, reinstating sequestration to enforce pay-go and discretionary spending caps, and limiting the use of reconciliation to deficit reduction legislation.

The first step we should take to put our Nation's finances back in order is to stop digging the hole deeper. Restoring a strong pay-go rule would help to do exactly that. This legislation would restore the Senate pay-as-you-go rule to require that mandatory spending and tax legislation be fully paid for, or be subject to a 60-vote point of order. Pay-go is one of the crucial budget enforcement tools that allowed the Federal Government to move from deficit to surplus in the 1990s. Unfortunately, the Senate pay-go rule has been weakly enforced in recent years, in order to allow for passage of large tax cuts. Since then, deficits and debt have skyrocketed.

In 2004, a Democratic amendment was adopted to the Senate Republican budget resolution that would have restored a strong pay-go rule requiring that both mandatory spending and tax cuts be paid for. However, the Republican leadership refused to accept a budget resolution conference agreement that contained the provision, so it was not adopted and the strong pay-go rule was never brought into effect. The Fiscal Responsibility for a Sound Future Act
THE PASSING OF NEBRASKA’S JOHNNY CARSON

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Nebraska’s Johnny Carson, the 30-year host of the “Tonight Show” and a dedicated Nebraska philanthropist. He passed away yesterday at the age of 79 in his Malibu, CA home.

Johnny Carson was a Nebraska original and icon. He is the late night talk show to an art-form and he did it with class and fun. Carson will be remembered as a generous individual who was proud of his State.

After serving in the Navy during World War II and attending the University of Nebraska at Lincoln, UNL, and earned a bachelor of arts degree in radio and speech. As a student, Carson practiced his comedy and perfected his ability to perform card and magic tricks. His experiences at UNL greatly influenced his career in entertainment.

Carson made many significant contributions to Nebraska. Among them a $2.27 million donation to a cancer radiation center in Norfolk and last November, he donated $5.3 million to UNL to help with the renovation of a building where he took classes.

I had the opportunity over the years to meet Carson. In 1967, he returned to Nebraska for the State’s Centennial celebration. He was invited by the Governor to headline the gala with his former Omaha radio morning show co-host Harvey Swenson. Swenson was the manager of KLMS radio station in Lincoln, where I worked at the time. Carson came to the station and talked with all of us about his early days in Nebraska radio.

After Carson graduated from high school, his parents moved from Norfolk to Columbus, NE, where I lived. I would occasionally see Carson walking his dogs in Columbus when he would visit his parents during the summers.

America will miss this good man, Johnny Carson. We are all very proud of where he was born and where he came from. I ask my colleagues to join me and all Americans in honoring Johnny Carson.

THE 32ND ANNUAL MARCH FOR LIFE

Mr. HAGEL. Mr. President, today is the 32nd Annual March for Life on Washington, DC’s National Mall. Individuals from all over the Nation will march together in solidarity, despite the bitterly cold weather, in support of the most basic of human rights: the right to life. The March for Life is an important opportunity to demonstrate a firm and clear commitment to preventing abortion and protecting the rights of each unborn child.

Today I met with 35 representatives from Nebraskans United for Life and Creighton University. They are committed to promoting the right to life for all human beings. It is our tireless effort to ensure that this issue remains at the forefront of debate.

I strongly support the efforts of the National Right to Life Committee. The March for Life is a powerful reminder of the progress that has been made and the work that remains for the pro-life cause.

Above all, we should focus on education, including the encouragement of abstinence and adoption. Communities, churches, synagogues and families must continue to come together to help provide a strong source of support and counsel for young men and women as they become adults.

HEALTH CARE

Mr. ENZI. Mr. President, rising health care costs and access to affordable health insurance are among the biggest worries Americans face today.

Health care costs are increasing faster than any other basic service in American society. Today, 44 million Americans lack health insurance at any given point during the year, and between 20 to 30 million of them are chronically uninsured.

My Republican colleagues and I will soon be introducing one of our priority bills for the coming Congress. This legislation, the Healthy America Act of 2005, is a groundbreaking and innovative set of health care solutions. These solutions build on the already impressive health care record of the last Congress—principally delivering Medicare prescription drug coverage, as well as health savings accounts available to all Americans.

Our bill will include many of President Bush’s health care reform priorities, as well as the legislative developments last year by the Senate Republican Task Force on Health Care Costs and the Uninsured, of which I was proud to be a member.

At the heart of this legislation are measures aimed at restraining health care costs, increasing access to care, and improving health care quality.

Toward this end, one of our—and the President’s—top priorities is comprehensive reform of America’s costly, unworkable, and fragile medical liability system. Our bill will ensure fair and rapid compensation to injured patients, reduce frivolous lawsuits, and limit excessive and costly damage awards.

Also especially important, I believe, is the creation of a new national framework for establishing personal electronic health records and for exchanging health information securely and privately. As the new chairman of the Senate Health, Education, and Pensions Committee I will be working closely with my colleagues in the coming months to develop legislation that will speed the adoption of standards and enable systems to talk" to each other. This legislation will save billions of dollars and, potentially, many thousands of lives.

Other critical features of this legislation include a commitment to reforming the struggling small group and individual health insurance markets, expanding the availability of health savings accounts, HSAs, creating targeted tax credits to help Americans purchase private health insurance, and expanding America’s Community Health Centers and related facilities.

Mr. President, this legislation will be a solid foundation and a promising beginning as we begin this new Congress. Together with my colleagues and with the President, I will work tirelessly to assure that health care costs, access, and quality are at the forefront of our priorities in the weeks and months ahead.

CONFIRMATION OF MARGARET SPELLINGS AS SECRETARY OF EDUCATION

Mr. HATCH. Mr. President, I rise today to express my support for Ms. Margaret Spellings as our new Secretary of Education.

This is a key position at a key time. As I travel around the great State of
Utah, there is no single issue area of greater concern than education. I am proud of the way Utah has been educating the children of my State. Our schools and teachers are among some of the best anywhere. Although we spend less per student than many other States, we are getting a great bang for our buck.

As a strong supporter of education, I have been pleased to play an active role in every piece of education reform legislation that has come before the Congress. In the past 28 years I have attended public schools, as did my children and now my grandchildren, and I have faith in our Nation’s schools. I look forward to working closely with Ms. Spellings and the Department of Education, particularly as I return to the Senate Committee on Health, Education, Labor, and Pensions.

I have been impressed by the President’s complete confidence in Ms. Spellings and her ability to serve our Nation as the most valuable asset, our children, as our top educator. While Ms. Spellings’ credentials and experience are very impressive, none is greater than her role as a mother and primary educator of her two daughters, Mary and Rachel. For a daughter, the home is the greatest classroom.

We are all aware of Ms. Spellings’ background of service in Texas as chief education advisor to then-Governor George W. Bush. I have been pleased to work closely with Ms. Spellings during the past four years in her capacity as the Assistant to the President for Domestic Policy. Since the announcement of her nomination by President Bush, I have received numerous letters in support of Ms. Spellings by various groups and individuals concerned about education issues.

Education is the hallmark of domestic issues. While I believe our Nation’s education system ranks among the finest in the world, we can still make improvements. Funding for schools is vital, and I have consistently supported federal funding to assist our Nation’s teachers, schools, and students. I will continue to support programs to enrich and improve our school system.

Ms. Spellings has indicated her strong commitment to the No Child Left Behind Act, NCLB, signed into law by President Bush on January 8, 2002. I have been supportive of NCLB. Even those who don’t agree with everything in NCLB agree that they are now focused on making sure every child is progressing, and they are using innovative approaches to tracking student achievement and motivating them to meet the new standards.

For example, an inner-city school in Utah with a large number of students in low-income, non-English-speaking families is using funds from NCLB to purchase a student tracking database that shows how each child is doing in each subject with every teacher. They know who needs the extra help and in what areas. They are enlisting the support of parents, teachers, and the community to make sure that these kids get the help they need. And they are having great results. Test scores are up. Honor roll is up. Parents are more satisfied. Students are taking pride in their education. And, that’s what NCLB is all about. Of course, NCLB does not mean the law is perfect. We need to fund it better, and too many schools do not make Annual Yearly Progress or AYP because they just do not understand what is required, or misinterpreted the law. I think it is time to adjust. We need to continue to do what is working in NCLB and look at what is not.

Utah has been in the forefront of the debate and was one of the first States to make moves toward possibly opting out of No Child Left Behind, due in part to concerns about retaining State control and objections to federal mandates without sufficient funding.

Make no mistake, I am a strong advocate for local control of education and want to make sure that there is sufficient flexibility for our States. I trust that the Department of Education will keep open lines of communication with the States and localities as we work together to ensure that truly no child is left behind.

I was particularly pleased that during her hearing before the Senate HELP Committee, Ms. Spellings accepted my invitation to personally visit Utah to meet with legislators and educators there. We look forward to her visit.

With her confirmation, Ms. Spellings will replace Secretary Roderick Paige. I would like to take a moment to note outgoing Secretary Roderick Paige’s service. During his tenure, he led the implementation of major education reforms. He showed great commitment to providing our children a quality education, notwithstanding their circumstances, thereby honoring the pledge to leave no child behind. While doing so, Secretary Paige demonstrated willingness to consider certain adjustments in an effort to align the implementation of the No Child Left Behind Act with the intent of the law. We thank him for his service.

Without a doubt, Ms. Spellings has many challenges ahead, but I am confident that she will serve our country with dedication and distinction. I yield the floor.

IN HONOR OF DR. MARTIN LUTHER KING, JR.’S BIRTHDAY

Mr. LAUTENBERG. Mr. President, I ask that this statement be inserted in the proper place in the RECORD.

I rise today to honor the life and legacy of Reverend Dr. Martin Luther King, Jr.

While I participated in an event commemorating the life of Dr. King at the Community stovepipe church in Linden, New Jersey. I felt it was important to pay tribute to the life and legacy of this extraordinary American on the first legislative day of this 109th Congress.

The impact of Dr. King’s life, actions and deeds is just as great today as it was 36 years ago, when his life was taken from us. Dr. King accomplished so much in his short life as pastor, civil rights activist and leader, Nobel Peace Prize recipient, Time magazine’s Man of the Year, and in many ways, the emancipator of all Americans.

Dr. King’s adherence to nonviolence in the pursuit of social justice left an indelible mark on our nation’s history and conscience. Clearly, much progress has been made in the struggle for civil rights, equality and social justice. We rightly pay tribute to the civil rights accomplishments to date, and we rightly attribute much of that progress to Dr. King.

But there is still much to do. And sadly, the current administration has had a disappointing record on civil rights and has showed little in shouldering leadership responsibility on these important issues.

Two years ago, on the week before we celebrated the birthday of Dr. King, Jr., President Bush intervened in a case before the United States Supreme Court in an effort to destroy affirmative action, which is effectively “equal education rights” for African Americans and other minority groups.

The case involved the University of Michigan affirmative action program. Unfortunately, in its first ruling on affirmative action in higher education admissions in 25 years, the nation’s highest court ruled on June 23, 2003, that race can be used in university admission decisions. Justice Sandra Day O’Connor wrote the majority deciding vote in the case, saying that affirmative action is still needed in America— but hoped that its days are numbered.

Last year, on Dr. King’s 75th birthday, President Bush went to Atlanta and laid a wreath at Dr. King’s grave. The very next day, despite protest from the civil rights community and against the expressed will of the Senate, President Bush recess appointed Judge Charles Pickering to the Fifth Circuit Court of Appeals.

President Bush cast aside several significant concerns of the African American and civil rights community. Some of these concerns included: Judge Pickering’s support as a State Senator in the 1960s for the Mississippi Sovereignty Commission, which was established to prevent the implementation of Brown v. Board of Education; Judge Pickering’s opposition as a legislator and Federal judge to voting rights for African Americans; and Judge Pickering’s decision as a Federal judge on two of the key protections of equal voting rights for all Americans—the one person-one vote.
Constitutional doctrine and the Voting Rights Act.

These are just two examples of a broader indifference President Bush has shown to the social, economic, and legal obstacles African-Americans are forced to overcome in their ongoing effort to achieve equality.

Affirmative action has proven beneficial in combating past discrimination and it remains necessary today. Judge Pickering is just one of a host of judicial nominees opposing civil rights President Bush has put forth as part of a larger effort to pack the Federal courts with ultra-conservative ideologues.

Each of us must do our part to advance the legacy of Dr. Martin Luther King, Jr., and to promote civil rights equality. I will continue to provide leadership in the 109th Congress to help minority businesses, increase access to education and health care, improve job growth, and fight racial profiling.

I believe that President Bush and the entire Congress will do the same.

TRIBUTE TO MR. PAUL KASTEN

Mr. BAUCUS. Mr. President, I rise today to say a few words of thanks to Steve Beasley, an outstanding agribusinessman. The entire Congress will do the same.

I am sad to see him go, but I know the USDA is eager to get him back. I thank him, his wife Julie, and his children Wells for rural mail route loop. As he celebrates a well-deserved retirement, let it be known that he leaves behind a memorable and strong legacy, spanning 57 years of dedicated service to the U.S. Postal Service, his eastern Montana mail route loop, and the people of the State of Montana. We are proud to honor him.

Mr. REIHAN sends his support and congratulations as well for Paul's significant achievement.

Beginning with a team of horses, Mr. Kasten delivered the mail faithfully to this frontier mail route for 57 noteworthy years, honorably upholding the U.S. Postal Service's code of conduct. In fact, he has gone above and beyond the call of duty on many occasions, delivering groceries and other necessary items to many people along this remote mail route during his tenure. It is clear that Mr. Paul Kasten has ceaselessly served the U.S. Postal Service and the State of Montana for nearly six decades, and is justly deserving of the honor I do to him today. I take great pride that Senator BAUCUS and I bring to the attention of this great body the hard work that Mr. Kasten has completed, both to the State of Montana and to Montana's people. Thank you for all your commendable service, Paul, and we wish you and your family all the best in your future endeavors.

ADDITIONAL STATEMENTS

HONORING DENNIS WIESE

• Mr. JOHNSON. Mr. President, I rise today to publicly commend the work of Mr. Dennis Wiese, President of South Dakota Farmers Union, SDFU, for his 12 years of dedicated service to South Dakota's farmers, ranchers and rural people. After six and a half terms as President of SDFU, Dennis has decided not to seek reelection and will begin his own consulting business in his hometown of Flandreau, SD.

Over the years, Dennis has been extraordinarily committed to South Dakota agriculture and is a real ambassador for farming and ranching in the state. As chair of the National Farmers Union subcommittee that worked on the farm bill rural development section, Dennis' insight was invaluable, during negotiations on the Farm Security and Rural Investment Act of 2002.

Since its establishment in 1914, South Dakota Farmers Union has consistently been a voice for family farmers and ranchers, always striving to improve the business climate for agriculture and the quality of life for all South Dakotans. Now, 91 years later, SDFU is regarded as the leader on issues concerning concentration in the agri-business sector. I have always been able to rely on Dennis and the SDFU for the backing needed to stand up to family farm cultural producers and the special position they hold America's business and cultural structure. Always looking to improve the quality of rural living, Dennis has been a consistent champion for fair trade, even when the notion has been unpopular to some. Throughout his presidency, Dennis faced some difficult situations. However, he never lost his concern that is important to South Dakotans' and continued to work for the betterment of rural America.

Under Dennis' leadership, SDFU has enhanced the lives of thousands of South Dakotans through various educational programs, particularly those aimed at the younger generation of farmers. Involvement in the SDFU education program jumped from 389 young producers enrolled in camps in 1987, to over 1,200 participants in the most recent camps. These camps teach young people about the benefits of cooperatives and shared responsibility, as well as the important rural values that make South Dakota stronger. As Dennis noted in his farewell speech to SDFU:

The most important Farmers Union is not the Farmers Union of yesterday. It is not the Farmers Union that I inherited from Dallas Towner, or the one I turned over to the next generation of Farmers Union leaders. The most important Farmers Union is the Farmers Union of tomorrow.

Dennis' hard work as president is reflected in the impressive legacy he leaves behind. SDFU has a strong, expanding membership, and prosperous and thriving education program filled with innovative ideas to impact South Dakota's rural communities.

It is with great honor that I share Dennis' accomplishments with my colleagues and publicly commend him for excellently serving South Dakota and family farmers. I wish the very best for him, his wife Julie, and his children Dayton, Kyle, Owen and Elyssa.

HONORING DR. VINE DELORIA, JR.

• Mr. JOHNSON. Mr. President, it is with great honor that I publicly commend Dr. Vine Deloria, Jr., for receiving the American Indian Visionary Award. Dr. Deloria, a member of the Standing Rock Sioux tribe, is a distinguished Native American scholar whose research, writings, and teaching span history, law, religion, and politics. This honor is given by the Native American publication, Indian Country Today, honors those who display "the highest qualities and attributes of leadership in defending the foundations of American Indian freedom." This is an honor Deloria richly deserves.

Born in 1933 in Martin, SD., Dr. Deloria has been at the forefront of American Indian activism since the 1960s. As executive director of the National Congress of American Indians from 1964 to 1977, and from 1987 to 1996, and frequently worked with leaders who have experience dated back to the Indian Reorganization Act of 1934. Consequently, Dr. Deloria attributes his involvement
in the Indian movement to working with those influential people, as they encouraged a new breed of activists.

For the past 4 decades, Dr. Deloria has been a voice of influence in Indian history, writing more than twenty books and countless articles and lectures. His works stimulated political thinking and discourse among Indian activists. As Wilma Mankiller, former Principal Chief of the Cherokee Nation, said of Dr. Deloria, “No writer has more clearly articulated the unspoken emotions, dreams and lifeways of contemporary Native people.”

Now a retired professor of political science from the University of Arizona and retired professor emeritus from the University of Colorado, Dr. Deloria is still writing and inspiring young activists from his home in Tucson, Arizona. In fact, Time magazine recognized Deloria as one of the 11 most influential religious thinkers of the twentieth century. As Indian Country Today notes, “Vine Deloria Jr. provided enormous perception, guidance, strategy and sheer analytical heft to the struggle for respect and justice for American Indians.”

Dr. Vine Deloria, Jr., is an extraordinary pioneer and supporter of Native American rights and the honor of winning the American Indian Visionary Award is one he highly deserves. He is a man of great scholarship and knowledge, and will continue to shape history for years to come. Dr. Deloria has never sought honors or recognition, but his scholarship has brought him well-deserved accolades. It is an honor for me to share his accomplishments with my colleagues and to publicly commend Dr. Deloria on his talent and commitment to history, understanding, and education.

**TRIBUTE TO DR. DAVID A. AUSTIN**

- Mr. JEFFORDS. Mr. President, it is with a heavy heart that I rise today to pay tribute to Dr. David A. Austin, an extraordinary man who touched many lives but passed away on November 4, 2004.

Dr. Austin lived a life full of vitality and enthusiasm. He had an accomplished career, always helped others without thought for himself and made his family the center of his life.

Dr. Austin was born in Brattleboro, VT, and graduated from St. Michael’s High School and received his Bachelor of Science from St. Michael’s College. From there he went on to medical school at the University of Vermont where he began his lifelong medical practice in Rutland in 1970. When not practicing medicine, he was busy serving the community as a member of the Christ the King Elementary School Parent-Teacher Association and the Mount St. Joseph Academy school board, on both of which he served as president for a time.

Later in life, when many people his age were settling into retirement, he was called up during the first Gulf War to Bahrain to serve his country once again, after which he was awarded the Presidential Meritorious Service Medal.

But one of his greatest honors came last April when his peers in the medical community awarded him the Physician of the Year Award. A better man could not have been recognized.

Dr. Austin will be missed by family, friends and all those he touched with his healing hand.

**TRIBUTE TO ADAM GARDNER, YILEI YANG, ASHLEY SMITH, JACK HARTZ AND BENJAMIN GOWAN**

- Mr. BUNNING. Mr. President, I wish to pay tribute to Adam Gardner, Yilei Yang, Ashley Smith, Jack Hartz and Benjamin Gowan as five true outstanding students from the Commonwealth of Kentucky.

The National Honor Society organizes a Scholar’s Bowl to foster a spirit of aspiration and hard work in America’s students. These Scholar Bowls include testing of each student in five different academic subjects, including English, math, science, social studies, and general knowledge. The tests are rigorous and they require a longstanding history as a good student.

Being recognized by this organization is truly an honor and I am pleased to hear that these five students from Kentucky have become the National Honor Society’s Scholar Bowl Champions. The four students from duPont Manual High School in Louisville, KY successfully defended their school’s title as National Honor Society National Scholar’s Bowl Champions. They are Adam Gardner, Yilei Yang, Ashley Smith, and Jack Hartz. One student, Benjamin Gowan, from Nelson County High School in Bardstown, KY, took first place in the test on the individual science subject category. Thanks to the hard work of these young men and women, four out of five of the top scoring students at last year’s Scholar’s Bowl were from the Commonwealth of Kentucky.

In their letter to me, the National Honor Society informed me that “these Kentucky students truly exhibited superlative performance.” I congratulate these five students for their hard work and their achievement.

**CELEBRATING WILLIAM BEAUMONT HOSPITAL’S FIFTIETH ANNIVERSARY**

- Mr. LEVIN. Mr. President, on behalf of Senator STABENOW and myself, I congratulate the William Beaumont Hospital on 50 years of dedicated service to the Michigan community.

William Beaumont Hospital opened its doors in Royal Oak in 1955 as a result of a survey in southeast Michigan which showed an overwhelming need for medical assistance in the area. The survey was quickly proven correct. Within its first week of operation, the hospital performed over 40 major surgeries and delivered over 30 babies. As the need continued to grow, Beaumont opened a second hospital in 1977 in Troy.

In the past 50 years, Beaumont has grown significantly, logging nearly 1.7 million inpatient admissions and nearly 3.3 million emergency visits. It works closely with several universities in Michigan to provide premier residency and fellowship programs and the Beaumont Research Institute conducts more than 800 active studies funded by grants.

Today, Beaumont is ranked among the top hospitals not just in Michigan but in the Nation. With staff representing over 90 different medical and surgical specialties, Beaumont has been honored with numerous awards including AARP’s “Top 50 Hospitals,” one of “America’s Best Hospitals” by U.S. News and World Report, a “100 Top Hospitals—National Benchmarks for Success” by Solucient, and one of Michigan’s “Best Places to Work” by Crain’s Detroit Business.

Senator STABENOW and I are delighted to have the opportunity to thank the former and current staff of Beaumont Hospital for their enormous contributions to the State of Michigan and to congratulate them on reaching this significant milestone.

**MESSAGES FROM THE PRESIDENT**

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

**EXECUTIVE MESSAGES REFERRED**

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

**EXECUTIVE REPORT OF COMMITTEE**

The following executive report of committee was submitted:

By Mr. CRAIG for the Committee on Veterans’ Affairs.

*Nomination was reported with recommendation that it be confirmed subject to the nominee’s commitment to...
INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, without ruminating:

By Mr. GREGG (for himself, Mr. FRIST, Mr. SESSIONS, Mr. DEWINE, Mr. ALLEN, Mr. SANTORUM, Mr. MCCONNELL, and Mr. DEMINT):
S. 3. A bill to strengthen and protect America in the war on terror; to the Committee on Foreign Relations.

By Mr. SANTORUM (for himself, Mrs. HUTCHISON, Mr. FRIST, and Mr. MCCONNELL):
S. 6. A bill to amend the Internal Revenue Code of 1986 to provide permanent family tax relief, to reauthorize and improve the program of block grants to States for temporary assistance for needy families and to improve access to quality child care, and to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the opportunity for low-income Americans to maintain financial security by building assets, and for other purposes; to the Committee on Finance.

By Mr. ENZI (for himself, Mr. Frist, Mr. DeMINT, and Mr. MCCONNELL):
S. 7. A bill to increase American jobs and economic growth by making permanent the individual income tax rate reductions, the reduction in the capital gains and dividend tax rates, and the repeal of the estate, gift, and generation-skipping transfer taxes; to the Committee on Finance.

By Mr. ENSIGN (for himself, Mr. HAGEL, Mr. BROWNBACK, Mr. SANTORUM, Mr. KYL, Mr. FRIST, Mrs. DOLE, Mr. SESSIONS, Mr. GRASSLEY, Mr. ALLEN, Mr. BUNNING, Mr. CORBURN, Mr. DEMINT, and Mr. MCCONNELL):
S. 8. A bill to amend title 18, United States Code, to prohibit actions in civil actions in their own behalf involving the involvement of parents in abortion decisions; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. FRIST, Mr. McCONNELL, and Mr. DEMINT):
S. 9. A bill to improve American competitiveness in the global economy by improving and strengthening national education and training programs, and for other purposes; to the Committee on Finance.

By Mr. LEVIN (for himself, Mr. REID, Mr. MIKULSKI, Mr. STABENOW, Mr. INOUYE, Mr. DORGAN, Mr. LAUTNER, Mr. LEBRY, Mr. SALAZAR, Mr. ROCKEFELLER, Mrs. MURRAY, Mr. BENSON and Mr. FEINSTEIN, Mr. DURBIN, Mr. KENNEDY, Mr. CORZINE, Mr. PRYOR, Mr. NELSON of Nebraska, Mr. REID, Mr. SCHUMER, and Mr. DAYTON):
S. 11. A bill to amend title 10, United States Code, to ensure that the strength of the Armed Forces and the protections and benefits of the Armed Forces and their families are adequate for keeping the commitment of the people of the United States to support their service members, and for other purposes; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. REID, Mr. BINGAMAN, Mr. MIKULSKI, Mr. DORGAN, Mr. STABENOW, Mr. INOUYE, Mr. ROCKEFELLER, Mr. LAUTNER, Mr. SCHUMER, and Mr. DAYTON):
S. 12. A bill to combat international terrorism, and for other purposes; to the Committee on Foreign Relations.

By Mr. AKAKA (for himself, Mr. REID, Mrs. BOXER, Mr. CORZINE, Mr. KENNEDY, Mr. INOUYE, Mr. DORGAN, Mr. LAUTNER, Mr. LEAHY, Mr. SALAZAR, Mr. ROCKEFELLER, Mrs. MURRAY, Mr. BENSON and Mr. FEINSTEIN, Mr. DURBIN, Mr. KENNEDY, Mr. CORZINE, Mr. PRYOR, Mr. SCHUMER, Mr. SARBANES, and Mr. DAYTON):
S. 13. A bill to amend titles 10 and 38, United States Code, to expand and enhance health care, mental health, transition, and disability benefits for veterans, and for other purposes; to the Committee on Veterans’ Affairs.

By Ms. STABENOW (for herself, Mr. REID, Mr. KENNEDY, Mr. CORZINE, Mr. INOUYE, Ms. MIKULSKI, Mr. DORGAN, Mr. LEAHY, Mr. ROCKEFELLER, Mr. SCHUMER, Mr. DURBIN, and Mr. DAYTON):
S. 14. A bill to provide fair wages for America’s workers, to create new jobs through investment in America, to provide for fair trade and competition for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. REID, Mr. KENNEDY, Mr. CORZINE, Mr. SCHUMER, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Ms. STABENOW, Mr. LAUTNER, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. INOUYE, Mr. ROCKEFELLER, Ms. SARBANES, Mr. DURBIN, and Mr. DAYTON):
S. 15. A bill to improve education for all students, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. REID, Ms. STABENOW, Mr. CORZINE, Mr. SCHUMER, Ms. MIKULSKI, Mr. AKAKA, Mr. LEVIN, Mr. KERRY, Mr. LAUTNER, Mr. ROCKEFELLER, Mr. DODD, Mr. PRYOR, and Mr. DURBIN):
S. 16. A bill to reduce to the cost of quality health care coverage and improve the availability of health care coverage for all Americans; to the Committee on Finance.

By Mr. DODD (for himself, Ms. MIKULSKI, Ms. STABENOW, Mr. ROCKEFELLER, and Mr. SCHUMER):
S. 17. A bill to Help America Vote Act of 2002 to protect voting rights and to improve the administration of federal elections, and for other purposes; to the Committee on Administration.

By Mr. DAYTON (for himself, Mr. REID, Ms. STABENOW, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. CORZINE, Mr. SCHUMER, Mrs. MURRAY, Ms. MIKULSKI, Mr. LAUTNER, Mr. AKAKA, Mr. INOUYE, Mrs. CLINTON, Mr. LEVIN, Mr. KERRY, Mr. LEAHY, Mr. ROCKEFELLER, Mr. DODD, Mr. SARBANES, and Mr. DURBIN):
S. 18. A bill to amend title XVIII of the Social Security Act to make improvements to the Medicare program for beneficiaries; to the Committee on Finance.

By Mr. CONRAD (for himself, Mr. REID, Mr. FEINSTEIN, Mr. MIKULSKI, Mr. STABENOW, Mr. INOUYE, Mr. LEAHY, Mr. SALAZAR, Mr. ROCKEFELLER, Mr. SCHUMER, Mrs. FEINSTEIN, Mr. DAYTON, Mr. DODD, and Mrs. CLINTON):
S. 19. A bill to reduce budget deficits by restoring budget enforcement and strengthening fiscal responsibility; to the Committee on Finance.

By Mr. REID (for himself, Mrs. MURRAY, Mr. SCHUMER, Mr. CORZINE, Mr. LAUTNERBERG, Mrs. CLINTON, Mr. KENNEDY, Mr. CORZINE, Mr. LEAHY, Mrs. BOXER, Mr. MIKULSKI, Mr. INOUYE, Mr. AKAKA, Mr. LEVIN, Mr. KENNEDY, Mr. LEAHY, Mr. WYDEN, and Ms. STABENOW):
S. 20. A bill to expand access to preventive health care services that help reduce unintended pregnancy, decrease the number of abortions, and improve access to women’s health care; to the Committee on Health, Education, Labor, and the Aging.

By Mrs. HUTCHISON:
S. 21. A bill to establish an emergency reserve fund to provide timely financial assistance to response to community emergencies and emergencies; to the Committee on the Budget.

By Mr. CHAMBLISS:
S. 25. A bill to promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. FRIST, Ms. CANTWELL, Mr. ENOSH, Mr. ALEXANDER, and Mr. CORNYN):
S. 27. A bill to amend the Internal Revenue Code of 1986 to make permanent the deduction of the Armed Forces who are called or ordered to active duty, and for other purposes; to the Committee on Armed Services.

By Mr. SARBANES (for himself, Mr. CORZINE, Mrs. CLINTON, Mr. AKAKA, Mr. BINGAMAN, Mr. SCHUMER, Mr. DODD, Mrs. BOXER, Mr. MIKULSKI, and Mr. REID):
S. 31. A bill to amend the Electronic Fund Transfer Act to ensure consumer protections to international remittance transfers of funds originating in the United States, and for other purposes; to the Committees on Banking, Housing, and Urban Affairs.

By Mr. DAYTON (for himself, Mr. REID, Mr. DORGAN, Mr. LEAHY, Ms. MIKULSKI, Mr. CORZINE, and Mr. JOHNSON):
S. 32. A bill to enhance the benefits and protections for members of the reserve components of the Armed Forces who are called or ordered to extend active duty, and for other purposes; to the Committee on Armed Services.

By Mrs. CANTWELL (for herself, Mr. BINGAMAN, Mrs. FEINSTEIN, Mrs. MURRAY, and Mr. FEINGOLD):
S. 33. A bill to prohibit energy market manipulation; to the Committee on Energy and Natural Resources.

By Mr. LIEBERMAN:
S. 34. A bill to provide for the development of a global tsunami detection and warning system, to improve existing communication of tsunami warnings to all potentially affected nations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CONRAD:
S. 35. A bill to amend the Internal Revenue Code of 1986 to extend the credit for production of electricity from wind; to the Committee on Finance.

By Mr. INOUYE:
S. 36. A bill to amend title 10, United States Code, to recognize the United States Cancer Institute’s establishment within the Uniformed Services University of the Health Sciences, to require the Institute to promote the health of members of the Armed Forces and their dependents by enhancing cancer research and treatment, to provide for a study of the epidemiological causes of cancer among various ethnic groups, and for cancer prevention, detection efforts, and for other purposes; to the Committee on Armed Services.
By Mrs. FEINSTEIN (for herself and Mrs. HUTCHISON):
S. 37. A bill to extend the special postage stamp for breast cancer research for 2 years; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY:
S. 38. A bill to increase the amount of the Medicare portion of the Social Security tax payable with respect to deceased members of the Armed Forces after the September 11, 2001 terrorist attacks and prior to 2005; to the Committee on Finance.

By Mr. NELSON of Nebraska (for himself, Mr. DOMENICI, and Mr. CRUZ):
S. 41. A bill to amend the Safe Drinking Water Act to exempt nonprofit small public water systems from certain drinking water standards relating to naturally occurring contaminants; to the Committee on Environment and Public Works.

By Mr. ALLEN (for himself, Mr. NELSON of Nebraska, Ms. DOLE, Ms. MURkowski, and Mr. VITTER):
S. 44. A bill to amend the United States Code to increase the death gratuity payable with respect to deceased members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. HAGEL (for himself, Mr. COLEMAN, Mr. KENNEDY, Mr. DEWINE, and Mr. OBAMA):
S. 48. A bill to provide certain enhancements to the Montgomery GI Bill Program for certain individuals who serve as members of the Armed Forces after the September 11, 2001 terrorist attacks; to the Committee on Armed Services.

By Mr. LEVIN (for himself, Mr. HATCH, and Mr. BURDEN):
S. 49. A bill to amend title 10, United States Code, to increase the amount of the military death gratuity from $22,000 to $30,000; to the Committee on Armed Services.

By Ms. CANTWELL (for herself, Mr. LEVY, Mr. KAY HAGAN, Mr. BINGAMAN, and Mr. CORZINE):
S. 47. A bill to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):
S. 48. A bill to reauthorize appropriations for the Coastal Heritage Trail System Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. STEVENS (for himself and Ms. MURkowski):
S. 49. A bill to establish a joint Federal-State Floodplain and Erosion Mitigation Commission for the State of Alaska; to the Committee on Energy and Natural Resources.

By Mr. INOUYE (for himself, Mr. STERLING, Ms. CANTWELL, Mr. BURDEN, Mr. LAUTENBERG, Ms. SNOWE, Mr. AKARA, Ms. MURkowski, Ms. CLINTON, Mr. SMITH, and Mr. MURRAY):
S. 50. A bill to authorize the National Geophysical Data Center to provide government-wide geophysical data for 3 years; to the Committee on Energy and Natural Resources.

By Mr. BROWNBACK (for himself, Mr. ALEXANDER, Mr. ALLEN, Mr. Bunning, Mrs. DOLE, Mr. JACKSON, Mr. CHAMBLISS, Mr. BURNS, Mr. COBURN, Mr. COLEMAN, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. DEWINE, Mr. JOHNSON, Mr. GRAHAM, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. INHOFE, Mr. Kyl, Mr. ROBERTS, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. TALENT, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. MARTINEZ, Mr. ENNIS, and Mr. MCCONNELL):
S. 51. A bill to ensure that women seeking an abortion are fully informed regarding the pain experienced by their unborn child; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HATCH:
S. 52. A bill to direct the Secretary of the Interior to construct a new federal center for the National Park Service to be located in Beaver County, Utah; to the Committee on Energy and Natural Resources.

By Mr. HATCH:
S. 53. A bill to amend the Mineral Leasing Act to authorize the Secretary of the Interior to issue separately, for the same area, a lease for tar sand and a lease for oil and gas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH:
S. 54. A bill to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ALLARD:
S. 55. A bill to adjust the boundary of Rocky Mountain National Park in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mr. ALLARD:
S. 56. A bill to establish the Rio Grande National Area in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ALLARD:
S. 57. A bill to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act by directing the Secretary to take such actions as necessary to ensure that the site is located in the City of Denver; to the Committee on Energy and Natural Resources.

By Mr. ALLARD:
S. 58. A bill to amend title 10, United States Code, to direct former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

By Mr. INOUYE:
S. 59. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use the Department of Defense commissary and exchange stores; to the Committee on Armed Services.

By Mr. FEINGOLD:
S. 60. A bill to amend the Social Security Act to provide 100 percent reimbursement for medical assistance provided to a Native Hawaiian through a medically qualified health center or a Native Hawaiian health care system; to the Committee on Finance.

By Mr. INOUYE:
S. 61. A bill to amend title XVIII of the Social Security Act to provide improved reimbursement for clinical social worker services under the medicare program; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):
S. 62. A bill to establish the Northern Rio Grande National Heritage Area in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. LINCOLN (for herself and Mr. PYORI):
S. 64. A bill to direct the Secretary of Energy to establish a decommissioning pilot program to decommission and decontaminate the South-versed fast breeder experimental test-site reactor located in northwest Arkansas; to the Committee on Energy and Natural Resources.

By Mr. INHOFE (for himself, Mr. STERLING, and Mr. BURDEN):
S. 65. A bill to amend title XVIII of the Social Security Act to provide coverage for services provided by nursing school clinics under Medicare programs; to the Committee on Finance.

By Mr. INOUYE:
S. 66. A bill to amend title XIX of the Social Security Act to provide 10 percent reimbursement for medical assistance provided to a Native Hawaiian through a medically qualified health center or a Native Hawaiian health care system; to the Committee on Finance.

By Mr. INOUYE:
S. 67. A bill to amend the Public Health Service Act to provide health care practitioners in rural areas with training in preventive health care, including both physical and mental care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:
S. 68. A bill to amend title XIX of the Social Security Act to provide 100 percent reimbursement for medical assistance provided to a Native Hawaiian through a medically qualified health center or a Native Hawaiian health care system; to the Committee on Finance.

By Mr. INOUYE:
S. 69. A bill for the relief of Donald C. Pence; to the Committee on Armed Services.

By Mr. INOUYE:
S. 70. A bill to amend title XVIII of the Social Security Act to remove the restriction that a clinical psychologist or a clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician; to the Committee on Armed Services.

By Mr. INOUYE:
S. 71. A bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work at any one time; to the Committee on Finance.

By Mr. INOUYE:
S. 72. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are detained or interned by an enemy government or a hostile force under wartime conditions; to the Committee on Homeland Security and Governmental Affairs.

By Ms. CANTWELL:
S. 73. A bill to promote food safety and to protect the animal feed supply from bovine spongiform encephalopathy; to the Committee on Agriculture, Nutrition, and Forestry.
S. 74. A bill to designate a portion of the White Salmon River as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

By Mr. CANTWELL: S. 75. A bill to permanently increase the maximum annual contribution allowed to be made to Coverdell education savings accounts; to the Committee on Finance.

S. 76. A bill to amend the Internal Revenue Code of 1986 to permanently increase the maximum contribution allowed to be made to Coverdell education savings accounts; and to provide for a deduction for contributions to education savings accounts; to the Committee on Finance.

By Mr. SESSIONS (for himself and Mr. LIEBERMAN): S. 77. A bill to amend titles 10 and 38, United States Code, to improve death benefits for the families of deceased members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Ms. HAVINGGOOD (for herself, Mr. BROWNBACK, Mr. CORNYN, Mr. BUNNING, Mr. BURNS, Mr. HAGEL, and Mr. ENSEN): S. 78. A bill to make permanent marriage penalty relief; to the Committee on Finance.

S. 79. A bill to require the Secretary of the Army to certify the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Armed Services.

By Mr. INOUYE: S. 80. A bill to restore the traditional day of observance of Memorial Day, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG: S. 81. A bill for the relief of Benjamin M. Banro; to the Committee on the Judiciary.

By Mr. CRAIG: S. 82. A bill for the relief of Robert J. Bancroft, of Newport Washington, to permit the payment of backpay for overtime incurred in missions flown with the Drug Enforcement Agency; to the Committee on Homeland Security and Governmental Affairs.

By Mr. INOUYE: S. 83. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for the conversion of public housing corporations into condominiums; to the Committee on Finance.

By Mr. INOUYE: S. 84. A bill to amend the Internal Revenue Code of 1986 to exempt certain sightseeing flights from taxes on air transportation; to the Committee on Finance.

By Mr. INOUYE: S. 85. A bill for the relief of Ricke Kaname Fujino of Honolulu, Hawaii; to the Committee on the Judiciary.

By Mr. INOUYE: S. 86. A bill for the relief of Sung Jun Oh; to the Committee on the Judiciary.

By Mr. INOUYE: S. 87. A bill to recognize the organization known as the National Academies of Practice; to the Committee on the Judiciary.

By Mr. INOUYE: S. 88. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to mental disease or defect, to be conducted by a clinical social worker; to the Committee on the Judiciary.

By Mr. INOUYE: S. 89. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional psychology eligible to participate in various health professions loan programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE: S. 90. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE: S. 91. A bill to amend title VII of the Public Health Service Act to ensure that social work students or social work schools are eligible for support under certain programs to assist individuals in pursuing health careers and to provide grants for training projects in geriatrics, and to establish a social work training program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE: S. 92. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE: S. 93. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LUGAR (for himself, Mr. LEAHY, Mrs. LINCOLN, Mrs. DOLK, and Mr. BAYH): S. 94. A bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory; to the Committee on Finance.

By Mr. LAUTENBERG (for himself and Mr. DEWINE): S. 95. A bill to amend titles 23 and 49, United States Code, concerning length and weight limitations for vehicles operating on Federal-aid highways, and for other purposes; to the Committee on Environment and Public Works.

By Mr. INHOFE: S. 96. A bill to target Federal funding for research and development under section 1928 of the Social Security Act to encourage the production of influenza vaccines by eliminating the price cap applicable to the purchase of such vaccines under contracts entered into by the Secretary of Health and Human Services, to amend the Internal Revenue Code of 1986 to establish a tax credit to encourage vaccine manufacturing capability, and for other purposes; to the Committee on Finance.

By Mr. ENZI: S. 97. A bill to provide for the sale of bentonite in Big Horn County, Wyoming; to the Committee on Energy and Natural Resources.

By Mr. ALLARD (for himself, Mrs. CLINTON, Mr. SHIBLY, Mr. FEINGOLD, Mr. BURNS, and Mr. ISAACSON): S. 98. A bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging in activity, or indirectly, in real estate brokerage or real estate management activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ENZI: S. 99. A bill to authorize the Secretary of the Interior to enter into a contract with the city of Cheyenne, Wyoming, for the storage of the city’s water in the Kendrick Project, Wyoming; to the Committee on Energy and Natural Resources.

By Mr. ALLARD (for himself and Mr. SALAZAR): S. 100. A bill to authorize the exchange of certain land of the United States located in the state of Colorado; to the Committee on Energy and Natural Resources.

By Mr. ENZI: S. 101. A bill to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation; to the Committee on Energy and Natural Resources.

By Mr. TALENT: S. 102. A bill to provide grants to States to combat methamphetamine abuse; to the Committee on the Judiciary.

By Mr. TALENT (for himself, Mrs. FEINSTEIN, Mr. BAYH, Mr. NELSON of Nebraska, Mr. DAVTON, Mr. WYDEN, Mr. SALAZAR, Mr. HAGEL, Mr. HARKIN, Mr. SMITH, Mr. COLEMAN, and Mr. GRASSLEY): S. 103. A bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. TALENT (for himself, Mr. WYDEN, Mr. COLEMAN, and Mr. CORZINE): S. 104. A bill to amend the Internal Revenue Code of 1986 to provide tax-exempt financing of highway projects and rail-truck transfer facilities; to the Committee on Finance.

By Mr. TALENT (for himself, Mr. SESSIONS, and Mr. DEMINT): S. 105. A bill to reauthorize and improve the program of block grants to States for temporary assistance to needy families, improve access to quality child care, and for other purposes; to the Committee on Finance.

By Mr. LEVIN: S. 106. A bill to provide for the reliquidation of certain entries of candles; to the Committee on Finance.

By Mr. LEVIN: S. 107. A bill to provide for the reliquidation of certain entries of clock radios; to the Committee on Finance.

By Mr. JOHNSON (for himself, Mr. ENZI, Mr. BINGAMAN, and Mr. DORSEY): S. 108. A bill to prohibit the operation during a calendar year of the final rule issued by the Secretary of Agriculture to establish standards for the designation of minimal-risk regions for the introduction of bovine spongiform encephalopathy into the United States, including designation of Canada as a minimal-risk region, and the importation into the United States from Canada of certain bovine ruminant products during that calendar year, unless an adequate label is required for the retail sale of a covered commodity during that calendar year; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. VITTER (for himself, Mr. SALAZAR, Mr. THUNE, and Mr. DEMINT): S. 109. A bill entitled “Pharmaceutical Market Access Act of 2005”; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN: S. 110. A bill for the relief of Robert Liang and Alice Liang; to the Committee on the Judiciary.

By Mrs. FEINSTEIN: S. 111. A bill for the relief of Shigeru Yamada; to the Committee on the Judiciary.

By Mrs. FEINSTEIN: S. 112. A bill for the relief of Denes Fulop; to the Committee on the Judiciary.

By Mrs. FEINSTEIN: S. 113. A bill to modify the date as of which certain tribal land of the Lytton Rancheria of California is deemed to be held in trust; to the Committee on Indian Affairs.

By Mr. KERRY (for himself, Mr. KENNEDY, Mrs. MURRAY, Mr. LAUTENBERG, Mr. CORZINE, and Ms. CANTWELL):
S. 114. A bill to amend titles XIX and XXI of the Social Security Act to ensure that every uninsured child in America has health insurance coverage, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 115. A bill to require Federal agencies, and persons engaged in interstate commerce, in possession of electronic data containing personal information, to disclose any unauthorized acquisition of such information; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 116. A bill to require the consent of an individual prior to the sale and marketing of such individual's personally identifiable information, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 117. A bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN:

S. 118. A bill in behalf of Maria Cristina DeGrassi; to the Committee on the Judiciary.

By Mrs. FEINSTEIN for herself, Ms. COOKMAN, Mr. SCHUMER, Mr. HAGEL, Mr. DURBIN, Mr. DEWINE, Ms. CANTWELL, Mr. INOUYE, and Mr. FEINGOLD:

S. 119. A bill to provide for the protection of unaccompanied alien children, and for other purposes; to the Committee on the Judiciary.

By Mr. FEINGOLD:

S. 120. A bill for the relief of Efrain Arreola-Saucedo, Maria Elena Cobian Arreola, Nayely Bibiana Arreola, and Cindy Jay Arreola; to the Committee on the Judiciary.

By Mr. DEWINE (for himself, Mr. DURBIN, Mr. ALLEN, Mr. HAGEL, Mr. COLEMAN, Mr. JOHNSON, Mr. OBAMA, and Mr. LEAHY):

S. 121. A bill to amend titles 10 and 38, United States Code, to improve the benefits provided for survivors of deceased members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. FEINGOLD:

S. 122. A bill to abolish the death penalty under Federal law; to the Committee on the Judiciary.

By Mr. FEINGOLD:

S. 123. A bill to amend part D of title XVIII of the Social Security Act to provide for negotiation of fair prices for Medicare prescription drugs; to the Committee on Finance.

By Mr. FEINGOLD:

S. 124. A bill to amend title XVIII of the Social Security Act to repeal the MA Regional Plan Stabilization Fund; to the Committee on Finance.

By Mrs. BOXER (for herself, Mrs. FEINSTEIN, and Mr. DURBIN):

S. 125. A bill to designate the United States courthouse located at 501 I Street in Sacramento, California, as the "Robert T. Matsui United States Courthouse"; to the Committee on Environment and Public Works.

By Mrs. LINCOLN:

S. 126. A bill to improve the administration of the Animal and Plant Health Inspection Service, the Department of Agriculture and for other purposes; to the Committee on Environment and Public Works.

By Mr. INOUYE:

S. 127. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Environment and Public Works.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 128. A bill to designate certain public land in Humboldt, Del Norte, Mendocino, Lake, and Siskiyou Counties in the State of California as wilderness, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TALENT:

S. 129. A bill to amend title 23, United States Code, to provide for HOV facilities; to the Committee on Environment and Public Works.

By Mr. HAGEL (for himself and Mr. NELSON of Nebraska):

S. 130. A bill to authorize an additional district judgehip up for the District of Nebraska; to the Committee on the Judiciary.

By Mr. INHOFE (for himself and Mr. VOINOVICH):

S. 131. A bill to amend the Clean Air Act to reduce air pollution through expansion of cap and trade programs, to provide an alternative authority to amend section 111 for units subject to the cap and trade program; to the Committee on Environment and Public Works.

By Mr. SMITH (for himself and Mrs. LINCOLN):

S. 132. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance; to the Committee on Finance.

By Mr. TALENT (for himself and Mr. FEINGOLD):

S. 133. A bill to amend section 302 of the PROTECT Act to modify the standards for the issuance of alerts through the AMBER Alert communications network; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 134. A bill to adjust the boundary of Redwood National Park in the State of California; to the Committee on Energy and Natural Resources.

By Mr. BURNS (for himself, Mr. JOHNSTON, Mr. THOMAS, Mr. BINGAMAN, Mr. THUNE, and Mr. DURGAN):

S. 135. A bill to amend the Agricultural Marketing Act of 1946 to expand county of origin labeling for certain covered commodities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. FEINSTEIN:

S. 136. A bill to authorize the Secretary of the Interior to provide supplemental funding and other necessary assistance to assist certain local school districts in the State of California in providing education services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area; to the Committee on Energy and Natural Resources.

By Mr. KERRY:

S. 137. A bill to modify the contract consolidation program in the Small Business Act, and for other purposes; to the Committee on Small Business and Entrepreneurship.

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

S. 138. A bill to make improvements to the microbusiness loan program administered by the Small Business Administration; to the Committee on Small Business and Entrepreneurship.

By Mr. KERRY:

S. 139. A bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a vocational rehabilitation development program; to the Committee on Small Business and Entrepreneurship.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 140. A bill to provide for a domestic defense fund to improve the Nation's homeland defense, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEVIN (for himself and Mr. JEFFORDS):

S. 141. A bill to amend part A of title IV of the Social Security Act to allow up to 24 months of vocational training to be counted as a work activity under the temporary assistance to needy families program; to the Committee on Finance.

By Mr. SCHUMER:

S. 142. A bill for the relief of Alemseghed Mussie Tesfamical; to the Committee on the Judiciary.

By Mr. DAYTON:

S. 143. A bill to ensure that Members of Congress do not receive better prescription drug benefits than Medicare beneficiaries; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. KOHL (for himself and Mr. CORKER):

S. 144. A bill to change the date for regularly scheduled Federal elections and establish polling place hours; to the Committee on Rules and Administration.

By Mr. ALLARD (for himself, Mr. INHOFE, Mr. LOTT, Mr. ENZI, Mr. DEMINT, Mr. SANTORUM, Mr. CRAPO, Mr. SESSIONS, Mr. VITTER, Mr. THUNE, Mr. ALEXANDER, Mr. FRIEST, Mr. TALENT, Mr. BURH, Mrs. HUTCHISON, Mr. KYL, Mrs. Dole, Mr. MARTINEZ, Mr. ISAKSON, Mr. MCCONNELL, Mr. HATCH, Mr. ROBERTS, Mr. CORNYN, Mr. STEVENS, and Mr. COBURN):

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States relating to marriage; to the Committee on the Judiciary.

By Mr. CRAIG:

S.J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States relative to require a balanced budget and protect Social Security surpluses; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself, Mr. ALBANYER, Mr. DOMENICI, Mr. COCHRAN, Mr. HAGEL, Mr. WARNER, Mr. BIDEN, Mr. HATCH, Mr. KENNEDY, Mr. DODD, and Mr. GRAHAM):

S. Res. 7. A resolution relating to the death of Major General L. Le lienoon, former Sergeant at Arms of the Senate; considered and agreed to.

By Ms. COLLINS (for herself, Mr. FEINSTEIN, and Mr. COX):

S. Res. 8. A resolution expressing the sense of the Senate regarding the maximum amount of a Federal Pell Grant; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. Res. 9. A resolution expressing the sense of the Senate regarding designation of the month of November as “National Military Family Month”; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself and Mr. TALENT):

S. Con. Res. 3. A concurrent resolution expressing the sense of the Congress with respect to the murder of Emmett Till; to the Committee on the Judiciary.
STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GREGG (for himself, Mr. FRIST, Mr. SESSIONS, Mr. DEWINE, Mr. ALLEN, Mr. SANTORUM, Mr. MCCONNELL, and Mr. DEMINT):

S. 3. A bill to strengthen and protect America in the war on terror; to the Committee on Finance

Mr. ENZI. Mr. President, as reports continue to appear in the media, there can be little doubt that a critical area of homeland security, and one on which I will be focusing as Chairman of the Health, Labor, and Pensions Committee, is the issue of bioterrorism. It is clear that we cannot separate the need for a strong national biodefense from other aspects of emergency preparedness.

Last summer, when President Bush signed the Project BioShield Act into law, he called bioterrorism and efforts to use modern technologies against us the greatest danger of our time. The threat posed by bioterror has not gone unnoticed by terrorists and those who wish to do us harm. That is why we must continue to do everything we can to ensure our ability to respond to the use of biological weapons.

In the months to come, my Committee will be working together to develop the strategy we will need to provide for a strong national biodefense. We will be exploring a number of options in that effort, like providing incentives to increase private sector participation in the development of bio-tumor countermeasures and biopreparedness tools. We will also be examining ways to strengthen our domestic vaccine industry and increase the overall readiness of our public health system.

While I commend its intent, I declined to cosponsor S. 3, the Republican leadership bioterrorism bill introduced today. I look forward to developing bipartisan legislation to strengthen our national biodefense system in our Committee. Senator BURS, who will be leading the Subcommittee on Bioterrorism and Public Health Preparedness, will be an important part of that effort. I am also looking forward to the input of my fellow Committee members, including Senators KENNEDY, GREGG and HATCH, as well as Senator LIEBERMAN, who while not a member of my Committee, has made this a priority of his work in the Congress and put a great deal of thought and effort into the area. In the coming weeks and months, I will also be convening a number of roundtable meetings with critical stakeholders and experts as we develop our legislation.

Together, I am confident we can build on the work Congress and President Bush began with the Project Bio-shield legislation and do what is necessary to ensure that we are as prepared as we possibly can be for the ever-present and constantly changing threat of bioterrorism.

By Mr. ENZI (for himself, Mr. FRIST, and Mr. MCCONNELL):

S. 9. A bill to improve American competitiveness in the global economy by improving and strengthening Federal education and training programs, and for other purposes; to the Committee on Finance

Mr. ENZI. Mr. President, last week we had an opportunity to be a part of a truly historic event. As we gathered together on the west front of the Capitol, a huge crowd joined us along the Mall and down Pennsylvania Avenue to witness the inauguration of President Bush. It was a great moment for America as the President took his oath of office. Later, in what was one of the best inaugural speeches I have ever heard, he outlined his vision for the future and the theme for his second term.

It filled my heart with pride to hear him speak about freedom and the role America would continue to play in helping to bring that bright light to bear on the darkest regions of the world. As he spoke, I was pleased to hear him also renew, his commitment to our Nation’s education system and to bringing the highest standards to our schools. The President made it clear that success is an important part of making sure that every American has a stake in our future as a nation. Without it, the American dream we have shared for many years may be reduced to a nightmare for future generations.

Clearly, we can’t allow that to happen. That is why I am pleased to join, with the distinguished majority leader, Dr. FRIST, and my friend and colleague, from Tennessee, Senator ALEXANDER, in introducing legislation we have written to address that need and ensure a brighter future for our children. Among the goals our legislation seeks to address is the importance of strengthening our public education system, ensuring parents are involved in the process and, above all, giving our teachers the support they need to obtain the results we must have if our children are to have the best chance to succeed in life.

The legislation I am introducing today continues the work we began with the passage of the No Child Left Behind Act. That bipartisan legislation made it clear that we had high expectations for all public school children. It made it clear that all parents and educators must work to meet the, goal we have set of improving student achievement.

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It is important to provide flexibility to the States so they can manage Federal program dollars and address their unique needs in the most effective manner possible. We need to let leaders at the State and local level make the important decisions about this country’s education, because they are at the level closest to the people—and closest to the classroom where we must continue to get good results from our efforts.

The needs of rural schools must also continue to be addressed. Schools in rural States like Wyoming have unique needs and serve smaller populations. They can’t be administered like the large schools of the big cities in the East. One-size-fits-all policies that may work in large population centers are all too often doomed to fail in the smaller towns and cities of the West.

Although funding will be a key in the effort to address these issues, the Federal Government provides only a fraction of education spending in this country. For K-12 education, the Federal investment is still around 8 percent. The rest of the money comes from States and local districts. We need to trust these educators and administrators to work on behalf of the children in their charge. We must ensure they have the tools they need to see their students succeed.

We also want to support lifelong learning opportunities for students at every stage in their life. Education is...
changing; the way we approach learning has to change as well. Federal programs should reflect these changes and help our students adapt to them. Last year, more than 70 percent of college students were considered "nontraditional." Our education system needs to address the needs of adult learners, as well as children who take the more "traditional" track in education.

We want to create a strong link between education and the workforce. Businesses are creating and filling good jobs with good candidates, and we want to make sure we are filling those jobs with American workers.

In our technology-driven economy, school can never be out. It is estimated that 60 percent of tomorrow's jobs will require skills that only 20 percent of today's workers possess. It is also estimated that the average worker leaving college today will switch careers 14 times in their life, and 10 of those careers haven't been invented yet.

"To meet those needs, we need a system in place that can support a lifetime of education, training, and retraining. As tomorrow's workers change careers, they will need to learn new skills, or to apply their current skills to new areas. Our postsecondary institutions will play a critical role in supporting these students, as they do now through a number of Federal education programs."

High school dropouts are the most at-risk school population in the workforce. We must look at Federal efforts to reform high schools to make sure we are keeping students in school. We need to make sure that students are leaving high school with a diploma, a quality education, and the strong foundation of reading, writing, math and science skills that will help them succeed in the workforce. We must also reach out to those who do not have high school diplomas to give them an opportunity to increase the level of their skills so that they, too, have a chance to succeed in life. We can do that by increasing their awareness of and involvement in lifetime of learning programs.

In this bill, we have also included language to reauthorize the Workforce Investment Act. That will help an estimated 900,000 unemployed workers each year get back to work and provide American workers with the skills they will need to increase the level of their skills so that they, too, have a chance to succeed in life. We can do that by increasing their awareness of and involvement in lifetime of learning programs.

By Mr. LEVIN (for himself, Mr. REID, Ms. MIKULSKI, Ms. STABENOW, Mr. INOUYE, Mr. DORGAN, Mr. LUTENBERG, Mr. LEAHY, Mr. SALAZAR, Mr. ROCKEFELLER, Mrs. MURRAY, Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. DURBIN, Mr. KENNEDY, Mr. CORZINE, Mr. PYOR, Mr. NELSON of Nebraska, Mr. REED, Mr. SCHUMER, and Mr. DAYTON):

S. 11. A bill to amend title 10, United States Code, to ensure that the strength of our Armed Forces, the protections and benefits for members of the Armed Forces and their families are adequate for keeping the commitment of the people of the United States to support their service members, and for other purposes; to the Committee on Finance.

Mr. LEVIN. Mr. President, I am honored to introduce the Standing with Our Troops Act of 2005. This bill addresses the needs of the Soldiers, Sailors, Airmen, and Marines who have responded so bravely to the call of our Nation. We owe it to them and their families to ensure that they are properly trained and equipped for the hazardous duties they are performing, that they are fairly compensated for their service, and that they receive their pay in the correct amount, on time.

We start with the recognition that we have cut our troop strength too far to sustain current military operations. This bill would authorize increases of up to 40,000 additional active duty Soldiers and Marines over the next two years. The bill authorizes an increase in the active duty Army end strength by up to 20,000 Soldiers in 2006 and an additional 10,000 in 2007, and it authorizes the Marine Corps' projected active duty end strength by up to 5,000 Marines in 2006 and an additional 5,000 Marines in 2007.

The Department of Defense currently reports numbers of service members killed or seriously wounded in action in our ongoing combat operations in Iraq and Afghanistan. This bill would require a formal monthly report that includes the numbers of Soldiers, Sailors, Airmen and Marines who are killed in action; killed as a result of non-combat incidents in combat operations; killed as a result of self-inflicted wounds or suicide; wounded in action, when the injuries prevent the service member from returning to duty within 72 hours; wounded in action when the service member returns to duty within 72 hours, insofar as this data is currently maintained; and the total number of service personnel evacuated from theater for medical reasons. The procurement that our operations are expeditiously and fairly awarded to deserving military personnel, this bill would establish an Advisory Panel on Military Awards and Decorations to review the policies and practices of each of the Services for awarding medals and other decorations and to report to Congress. This Panel would compare the different Service policies and practices for decorating its military personnel, and make a recommendation as to whether individual service practices should be continued or a single standard adopted that applies to all Services; recommend measures that can be taken to ensure that service members serving in combat are at least as likely to receive medals as those not exposed to combat and enlisted personnel are just as likely as officers to be decorated for their service.

This bill would create an Office of Mobilization Planning and Preparedness within the National Security Council to ensure that all of our national resources are assembled and organized to respond to a national security emergency. National resources include our military, labor, transportation, industry and financial resources.

We know that current military operations are wearing out military equipment faster than we are replacing it. To address this, this bill would require the Secretary of Defense to report to Congress on the needs of our military forces for reconstituting stocks of equipment and material damaged, destroyed and worn out in Iraq Freedom and Operation Enduring Freedom. The report will include the needs of each military service, including the reserve components, for repair and replacement of equipment, and authorize appropriation of $3.5 billion for the Army and $2.1 billion for the Marine Corps for repair, refurbishment, and replacement of equipment used in OIF and OEF.

The Government Accountability Office (GAO) found, and I agree, that the Department of Defense's mobilization and deployment policies were implemented in a piecemeal fashion not linked to a strategic framework. We owe it to our service men and women to have clear policies regarding lengths of deployments. The Department of Defense must clearly communicate these policies and other deployment related information to service members and their families. This bill would require the Secretary of Defense to report to Congress on DoD policies on lengths of mobilization and deployment periods and on the use of stop-loss to keep military personnel in the service beyond their service commitments.
In two separate reports, the GAO has found that more than 90 percent mobilized reserve component personnel experienced pay problems. The GAO found that “these pay problems often had a profound adverse impact on individuals and their families.” This bill would require the designation of a senior official to ensure implementation of GAO recommendations to correct these pay problems.

Representation of our reserve component personnel at the highest levels in the Department of Defense could potentially help to ensure the readiness of our Guard and Reserve personnel. Accordingly, this bill creates a new position, a Deputy Under Secretary of Defense for Reserve Affairs, to speak for the Reserve Components.

This bill would give tax relief to mobilized service members and employers who make up for pay lost to service members who are ordered to active duty. It would amend the Internal Revenue Code to authorize activated National Guard and Reserve personnel to make penalty free withdrawals from qualified retirement plans; allow employers a tax deduction for making up the difference between military pay and civilian income of mobilized reservists; and authorize a tax credit to small business employers who continue to compensate members of the Ready Reserve ordered to active duty and for costs of hiring a replacement employee.

We know that the military pay of about a third of our mobilized National Guard and Reserve personnel is less than the pay they received from their civilian jobs. Many private employers already pay a wage differential to those who lose money, and we will encourage more to do so with the tax incentives I have just described. The biggest employer of our Guard and Reserve personnel is the Federal Government. The Federal Government should do as much as the private employers do for those who lose money while serving our Nation. This bill would require Federal Agencies to make up the pay differences for Federal employees who are ordered to active duty.

Studies have shown that 40 percent of our junior enlisted members in the reserve components have no health insurance except when they are on active duty and provide military service to the military’s TRICARE health care program for all members of the Selected Reserve and their families. They would pay a subsidized premium similar to the premium charged Federal Employees for health care. This will help to ensure that members of the National Guard and Reserves are medically ready when called to serve in the military.

When a Soldier, Sailor, Airmen or Marine dies on active duty, his survivors currently receive a death gratuity of just over $12,000. This is simply not enough. This bill would raise the death gratuity to $100,000, and would allow survivors to receive Dependency and Indemnity Compensation from the VA as well as a Survivor Benefit Plan annuity from the Department of Defense.

United States taxpayers have borne a disproportionate share of the cost for the reconstruction of Iraq. The support of the international community for this reconstruction is critical. This bill would require the President to report to Congress on U.S., Iraqi, and foreign contributions to Iraq’s reconstruction before any U.S. funds are appropriated. The bill would also require any U.S. funds for reconstruction in Iraq be in the form of a collateralized loan which the U.S. would guarantee unless the President reports to Congress that it is in the U.S. national security interest to provide the funds otherwise than in the form of a loan.

I again want to compliment the service of the young men and women serving in combat zones and their magnanimous and unselfish service to our Nation. I trust that the measures included in this bill will serve as a token of the Nation’s sincere appreciation for their great sacrifices and service.

S. 11

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 “Standing With Our Troops Act of 2005”.

DIVISION A—FULFILLMENT OF OBLIGATIONS TO THE MEMBERS OF THE ARMED FORCES

TITLE I—STRENGTHS OF THE ARMY AND MARINE CORPS ACTIVE FORCES

SEC. 101. FINDINGS.

Congress makes the following findings:

(1) While the United States Armed Forces remain the preeminent military power in the world, the Defense Science Board, in a study carried out in the summer of 2004, found that “When we match the existing and projected forces in theatre with the current and projected need for stabilization forces we see an enduring shortfall in both total numbers of people and their ability to sustain the continuity of stabilization efforts.”

(2) Between 1989 and 2004, the military personnel end strength of the Army has been reduced by more than 34 percent, and the Department of the Army’s civilian workforce has been reduced by more than 45 percent, while the mission rate of the Army has increased by 300 percent.

(3) Between the personnel reductions, the Army National Guard and the Army Reserve are repeatedly being called to active duty to meet Army mission requirements that the active-duty force is no longer large enough to meet alone. Army National Guard and Army Reserve units have provided up to 40 percent of the military personnel engaged in Operation Iraqi Freedom while they have also been performing a dramatically increased role in homeland defense and continuing to respond to natural disasters, global health threats, and military contingencies. As a result, the reserve components of the Army have been pushed to the breaking point.

SEC. 102. ARMED FORCES STRENGTHS FOR FISCAL YEAR 2006—Ef
fective on October 1, 2005, section 691(b)(1) of title 10, United States Code, is amended by striking “502,400” and inserting “522,400”.

(b) STRENGTH FOR FISCAL YEARS AFTER FISCAL YEAR 2006—Effective on October 1, 2006, section 691(b)(1) of title 10, United States Code, is amended by striking “522,400” and inserting “532,400”.

SEC. 103. MARINE CORPS.

(a) STRENGTH FOR FISCAL YEAR 2006—Effective on October 1, 2005, section 691(b)(1) of title 10, United States Code, is amended by striking “178,000” and inserting “183,000”.

(b) STRENGTH FOR FISCAL YEARS AFTER FISCAL YEAR 2006—Effective on October 1, 2006, section 691(b)(1) of title 10, United States Code, is amended by striking “183,000” and inserting “188,000”.

Title II—FULL RECOGNITION OF SACRIFICE AND VALOR OF UNITED STATES SERVICEMEMBERS

Subtitle A—Findings

SEC. 201. FINDINGS.

Congress makes the following findings:

(1) On November 21, 2004, the Columbia Broadcasting System television program 60 Minutes reported that the staff of that program had received from the Department of Defense a letter containing the assertion that 5,000 troops with so-called “non-battle” injuries and diseases have been evacuated from Iraq.

(2) This report was a rare disclosure by the Department of Defense as it is the policy of the Department of Defense not to disclose publicly the number of Armed Forces personnel that sustain non-combat injuries.

Subtitle B—Accounting for Casualties Incurred in the Prosecution of the Global War on Terrorism

SEC. 211. MONTHLY ACCOUNTING.

Not later than five days after the end of each month, the Secretary of Defense shall publish, for such month for each operation described in section 212, a full accounting of the casualties among the members of the Armed Forces that were incurred in such operation during that month.

SEC. 212. OPERATIONS COVERED.

The operations referred to in section 211 are as follows:

(1) Operation Iraqi Freedom.

(2) Operation Enduring Freedom.

(3) Each other operation undertaken by the Armed Forces in the prosecution of the Global War on Terrorism.

SEC. 213. COMPREHENSIVE CONTENT OF ACCOUNTING.

For the purpose of providing a full and complete accounting of casualties covered by a report under section 211, the Secretary of Defense shall include in the report the number of casualties in each casualty status in accordance with section 214.

SEC. 214. CASUALTY STATUS.

(a) STATUS TYPES.—In a report under this title, each casualty among members of the Armed Forces shall be characterized by the specific casualty status applicable to the member as follows:

(1) Killed in action.

(2) Killed in non-hostile duty.

(3) Killed, self-inflicted.

(4) Wounded in action, not returned to duty.

(5) Wounded in action, returned to duty (the term “wounded in action” as that data is available to support this characterization of casualty status).

(6) Evacuated for medical reasons.

(b) DEFINITIONS.—In this section:

KILLED IN ACTION.—The term “killed in action”, with respect to a member of the Armed Forces, means that the member incurred one or more mortal wounds while in the line of duty.

SEC 148 CONGRESSIONAL RECORD—SENATE January 24, 2005
(2) KILLED IN NON-HOSTILE DUTY.—The term ‘‘killed in non-hostile duty’’, with respect to a member of the Armed Forces, means that the member incurred one or more mortal wounds, or the member was self-inflicted and not inflicted during an action against a hostile force.

(3) KILLED, SELF-INFLECTED.—The term ‘‘killed, self-inflicted’’, with respect to a member of the Armed Forces, means a suicide of the member or the death of the member as a result of one or more self-inflicted injuries.

(4) WOUNDED IN ACTION, NOT RETURNED TO DUTY.—The term ‘‘wounded in action, not returned to duty’’, with respect to a member of the Armed Forces, means that the member, while involved in an action against a hostile force, incurred one or more non-mortal injuries that required medical attention and that prevented the member from returning to duty within 72 hours after incurring the injury or injuries.

(5) WOUNDED IN ACTION, RETURNED TO DUTY.—The term ‘‘wounded in action, returned to duty’’, with respect to a member of the Armed Forces, means that the member, while involved in an action against a hostile force, incurred one or more non-mortal injuries that required medical attention but did not prevent the member from returning to duty within 72 hours after incurring the injury or injuries.

(6) EVACUATED FOR MEDICAL REASONS.—The term ‘‘evacuated for medical reasons’’, with respect to a member of the Armed Forces, means that the member was evacuated from a theater of operations for medical reasons.

SEC. 215. PUBLICATION AND RELEASE OF REPORT.
The Secretary of Defense shall—
(1) post the report under this title on the official website of the Department of Defense; and
(2) submit a copy of the report to the chairman and ranking members of the Committees on Armed Services of the Senate and the House of Representatives.

SEC. 216. SENSE OF CONGRESS.
It is the sense of Congress that the Secretary of Defense has an obligation to ensure full and accurate reporting of casualties among the members of the Armed Forces to Congress and the people of the United States.

Subtitle C—Advisory Panel on Military Awards and Decorations

SEC. 221. ESTABLISHMENT.
The Secretary of Defense shall establish within the Department of Defense an Advisory Panel on Military Awards and Decorations.

SEC. 222. DUTIES.
(a) COMPREHENSIVE REVIEW OF MILITARY DECORATIONS SYSTEM.—The Advisory Panel shall conduct a comprehensive review of the standards and processes used in the Armed Forces for awarding medals and decorations to members of the Armed Forces. The review shall include the following matters:

(1) An examination and evaluation of the standards of each of the Armed Forces for awarding each medal and decoration.

(2) A comparison of the standards of each of the Armed Forces with the standards of each of the other Armed Forces for awarding comparable medals and decorations.

(3) An examination and evaluation of the speed with which—

(A) the Armed Forces identifies and considers members for the awarding of medals and decorations; and

(B) the medals and decorations are ultimately awarded.

(4) A review of the medals and decorations awarded by the Armed Forces during 2002, 2003, and 2004, together with a review of the ranks of the recipients and the mission-related and other circumstances that are associated with the awarding of the medals and decorations to those recipients.

(b) REPORT.—
(1) REQUIREMENT FOR REPORT.—Not later than 18 months after the date of the enactment of this Act, the Advisory Panel shall submit a report on the results of the review under this section to the Secretary of Defense and to Congress.

(2) CONTENT.—The report under this subsection shall contain the findings and conclusions of the Advisory Panel together with any recommendations for action that the Advisory Panel determines appropriate, and shall include the following matters:

(A) A discussion of the merits of maintaining for each of the Armed Forces separate policies for the awarding of comparable medals and decorations of the Armed Forces, together with a discussion of the merits of adopting uniform standards for awarding such medals and decorations.

(B) Measures that can be taken by each of the Armed Forces to expedite the process for timely identifying a member who deserves a medal or decoration, determining the appropriateness of awarding the medal or decoration to the member, and, in each appropriate case, awarding the medal or decoration to the member.

(C) Measures that can be taken to ensure that—

(i) members serving in combat are at least equally as likely to be considered for the awarding of medals and decorations as are personnel not exposed to combat; and

(ii) enlisted personnel are at least as likely to be considered for the awarding of medals and decorations as are officers.

(D) A recommendation regarding whether the Valor device awarded by each of the Armed Forces should be replaced by a separate class of medals honoring special bravery in combat.

(E) A determination of the desirability of adding a new class of medals, similar to the Purple Heart, to be awarded to military personnel who incur non-combat injuries in connection with performance of an official mission or duty in a combat operation in order to honor their sacrifice in service to the people of the United States.

(f) SCOPE LIMITED TO MILITARY DEPARTMENT OF DEFENSE.—The provisions of this section shall not apply to the Coast Guard.

SEC. 223. COMPOSITION AND ADMINISTRATION.
(a) COMPOSITION.—
(1) NUMBER: APPOINTMENT.—The Advisory Panel shall be composed of not more than seven members appointed by the Secretary of Defense.

(2) GENERAL AND FLAG OFFICERS.—The Secretary shall ensure that the membership of the task force includes a retired general or flag officer from each of the Army, Navy, Air Force, and Marine Corps who is familiar with the standards of each of the Armed Forces for awarding medals and decorations as are personnel not exposed to combat; and

(b) TIME FOR APPOINTMENT.—All members of the Advisory Panel shall be appointed within 60 days after the date of the enactment of this Act.

(c) CHAIRPERSON.—The chairperson of the Advisory Panel shall be selected from among the members of the Advisory Panel by a majority vote of the members.

(d) COMPENSATION OF MEMBERS.—Each member of the Advisory Panel shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the member’s home or regular places of business in the performance of services for the Advisory Panel.

SEC. 224. COOPERATION OF FEDERAL AGENCIES.
(a) INFORMATION.—The Advisory Panel may obtain directly from the Department of Defense, the Department of Veterans Affairs, or any other department or agency of the United States any information of such department or agency that the panel considers necessary for the panel to carry out its duties.

(b) OTHER COOPERATION.—The Secretary of Defense, the Secretary of Veterans Affairs, and any other official of the United States Government that provides the Advisory Panel with full and timely cooperation requested by the panel in carrying out its duties under this section.

SEC. 225. TERMINATION.
The Advisory Panel on Military Awards and Decorations shall terminate 30 days after the submission of the report to Congress under section 222.

TITLE III—MILITARY EQUIPMENT AND MATERIAL

SEC. 301. FINDINGS.
Congress makes the following findings:

(1) United States military personnel serving in Operations Iraqi Freedom have experienced significant shortages of critical equipment, such as body armor, aircraft survivability equipment, and armored trucks, including up- armored High Mobility Multipurpose Wheeled Vehicles. In many cases the shortages have lasted several months. For example, the individual body armor needed for protecting every member of the Armed Forces and Department of Defense civilians in Iraq was not produced and fielded until February 2004, 11 months after Operation Iraqi Freedom was launched. Shortages of armor for Army trucks still existed as of the beginning of 2005.

(2) United States military personnel serving in Operations Iraqi Freedom and Operation Enduring Freedom have taken a substantial toll on military equipment of the Armed Forces. The commanding general of the Army Materiel Command in February 2004 noted that the Army is wearing out its equipment in Iraq and Afghanistan at a rate that could be up to 10 times faster than the rate at which it wears out its equipment elsewhere during peacetime, and there are no significant reserve stocks of that equipment remaining.

(3) It is a solemn obligation of the United States Government to ensure that, whenever the Armed Forces are called into battle, the military personnel fighting or supporting the battle are provided with the safest, most effective technology and equipment.

SEC. 302. MOBILIZATION PLANNING AND PREPAREDNESS.
(a) DIRECTOR OF MOBILIZATION PLANNING AND PREPAREDNESS.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by striking section 107 and inserting the following new sections:

""DIRECTOR OF MOBILIZATION PLANNING AND PREPAREDNESS"
""Sec. 107. Definitions.—In this section:
""(1) The term ‘Direct’ means the Director of Mobilization Planning and Preparedness referred to in subsection (b)(1), except where the context clearly indicates otherwise.

""(2) The term ‘national security emergency’ means any occurrence, including a
natural disaster, a military or terrorist attack against the territory of the United States, a military operation carried out by the Armed Forces abroad, a technological emergency, or other events or circumstances that either seriously degrades or threatens the security of the United States or the Armed Forces.

The term 'mobilization' means the act of assembling and organizing national resources, including military personnel and equipment, labor, transportation systems, industrial and financial resources, to support national objectives in a time of national security emergency.

The term 'mobilization planning and preparedness' means the process by which plans can be executed during a national security emergency, including the identification of functions that would have to be performed during a national security emergency, development of plans for performing such functions, development of the capability to execute such plans, and development of policies that maximize the speed and efficiency with which such plans can be executed during a national security emergency.

The Director serves on the staff of the National Security Council.

The Director reports directly to the Assistant to the President for National Security Affairs.

The Director is a member of the National Security Council, who shall chair the committee.

The Director has the following duties:

1. Coordination with the Director of National Counterterrorism Center.
2. Any recommended policies on mobilization planning and preparedness that the Committee determines appropriate.
3. To participate in the exercises conducted by the Director of Mobilization Planning and Preparedness of the Department of Defense.
Title IV—Periods of Overseas Deployments of Reserves

SEC. 401. FINDINGS.

Congress makes the following findings:

(1) The Department of Defense failed to establish an adequate troop deployment and rotation policy for Operation Iraqi Freedom until several months after the operation had begun. For several reserve component units involved in that operation before 2005, the deployed service members were deployed more times than the unit members were finally allowed to return home.

(2) Without an adequate deployment and rotation policy, the Department of Defense has relied on a series of stop-gap measures to retain a sufficient number of troops to carry out the United States missions in Operation Iraqi Freedom and Operation Enduring Freedom, including—

(A) institution of a so-called “stop-loss” policy that prevents personnel from leaving their deployment;

(B) extensions of deployments beyond scheduled mobilization dates; and

(C) activation of members of the Individual Ready Reserve.

(3) In September 2004, the Government Accountability Office reported that “Many of DOD’s policies that affect mobilized reserve components were implemented in a piecemeal manner and were not linked within the context of a strategic framework to meet the organizational goals... Without a strategy for the Reserve, OSD and the services made several changes to their personnel policies to increase the availability of the reserve components for the longer-term requirements of the armed forces... and predictability declined for reserve component members.”

(4) Fairness to the men and women of the Armed Forces deployed overseas requires that the Department of Defense—

(A) have clear policies regarding lengths of deployment periods;

(B) communicate these policies and other deployment-related information to them and their families.

SEC. 402. SENSE OF CONGRESS ON TWO-YEAR LIMIT ON MOBILIZATION.

It is the sense of Congress that the Secretary of Defense should continue the existing Department of Defense policy of limiting to a total of 24 months the period for which members of the reserve components serve on active duty to which called or ordered in support of a contingency operation.

SEC. 403. COMMUNICATION OF LENGTHS OF DEPLOYMENT PERIODS TO RESERVES IN OPERATION IRAQI FREEDOM.

(a) REPORT OF DEPARTMENT OF DEFENSE POLICIES.

(1) REQUIREMENT FOR REPORT.—Not later than March 1, 2005, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on—

(A) Department of Defense policies governing the length of mobilization and deployment periods applicable to members of reserve components of the Armed Forces in connection with Operation Iraqi Freedom, Operation Enduring Freedom, and Operation New Dawn; and the Department of Defense and reserve component personnel and their families regarding the lengths of the mobilization deployment periods; and

(B) Department of Defense stop-loss policies.

(2) CONSULTATION REQUIREMENT.—In preparing the report, the Secretary shall consult with the Chairman and other members of the Joint Chiefs of Staff and with such other officials as the Secretary considers appropriate.

(b) CONTENT OF REPORT.—The report under this section shall contain a discussion of the matters described in subsection (a)(1), including a discussion of the following matters:

(1) The process by which the Department of Defense determined its policy regarding the length of mobilization deployment periods.

(2) The reason that an adequate troop deployment policy was not in place before Operation Iraqi Freedom began.

(3) A description of policies during Operation Iraqi Freedom with Department of Defense policies that applied to previous contingency operations.

(4) The timeliness of the process for notifying reserve component units for activation.

(5) The process for communicating with activated reserve component member and their families about demobilization schedules.

(6) The justification for delaying demobilization of reserve component families have been notified of the anticipated demobilization schedule.

(7) The justification for current stop-loss policies, together with a statement of the period for which those policies are to remain in effect and the conditions under which management of personnel under those policies would terminate.

(8) The family support programs provided by the National Guard and other reserve components for families of activated Reserves.

(9) An assessment of lessons learned about how the increased operation tempo of the National Guard and other reserve components is expected to affect readiness, recruitment and retention, civilian employers of Reserves, and equipment and supply resources of the National Guard and the other reserve components.

(c) MATTERS FOR PARTICULAR EMPHASIS.—In the discussion of the matters included in the report under this section the Secretary of Defense shall place particular emphasis on—

(1) lessons learned, including deficiencies identified; and

(2) near-term and long-term corrective actions to address the identified deficiencies.

(d) CONTENT OF REPORT.—The report submitted under this section shall be submitted in unclassified form, but may include a classified annex.

Title V—Timely Compensation

SEC. 501. FINDINGS.

Congress makes the following findings:

(1) In November 2003, the General Accounting Office reported in connection with a study conducted by that office, that among Army National Guard soldiers “460 of the 481 soldiers from our 6 case study units had at least 1 pay problem associated with their mobilization. These pay problems severely constrain the Army’s and the Department of Defense’s (DOD) ability to provide a most basic service to the many of whom were risking their lives in combat.”

(2) In August 2004, a second study by that office (by then renamed the Government Accountability Office) reported, in connection with a study of Army Reserve soldiers “332 of 348 soldiers (95 percent) we audited at 8 case study units that were mobilized, deployed, and demobilized at some point during the time from August 2002 through January 2004 had at least 1 pay problem.”

(3) The August 2004 report concluded that “these pay problems often had a profound adverse impact on individual soldiers and their families. For example, soldiers were required to spend some time during the 18-month period from mobilization to demobilization... while deployed in remote, hostile environments overseas, seeking help on pay inquiries or in correcting errors in their active duty pay, allowances, and related tax benefits.”

SEC. 502. CORRECTION OF MILITARY PAY PROBLEMS FOR ACTIVATED RESERVE COMPONENT PERSONNEL.

The Secretary of the Army shall designate a senior level official of the Department of the Army to implement the Army’s recommendation under section 10(a)(3) of Title 10, United States Code.

Title VI—Improved Representation of Reserve Personnel Interests in Department of Defense Secretariat

SEC. 601. FINDINGS.

Congress makes the following findings:

(1) The family support programs provided by the National Guard and other reserve components are expected to affect readiness, recruitment and retention, civilian employers of Reserves, and equipment and supply resources of the National Guard and the other reserve components.

(2) Matters for particular emphasis.—In the discussion of the matters included in the report under this section the Secretary of Defense shall place particular emphasis on—

(1) lessons learned, including deficiencies identified; and

(2) near-term and long-term corrective actions to address the identified deficiencies.

The report submitted under this section shall be submitted in unclassified form, but may include a classified annex.
(1) Since September 11, 2001, the National Guard and the other reserve components of the Armed Forces have experienced an expansion of their role in the total force structure of the Department of Defense to an unprecedented level. In 2004, the reserve components comprised 40 percent of the total force of the Armed Forces. Reservists are experiencing a dramatic increase in tempo and average length of deployment.

(2) While the extent of the role of the reserve component has changed so dramatically, the Department of Defense approach to management of the reserve components has remained much the same. No new senior leadership positions have been established to manage reserve components more effectively in the expanded role.

SEC. 602. DEPUTY UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS (RESERVE AFFAIRS).

(a) ESTABLISHMENT OF POSITION.—

(1) POSITION AND DUTIES.—Chapter 4 of title 10, United States Code, is amended by inserting after section 136b the following new section:

‘‘§ 136b. Deputy Under Secretary of Defense for Personnel and Readiness (Reserve Affairs).

‘‘(a) There is a Deputy Under Secretary of Defense for Personnel and Readiness (Reserve Affairs), appointed from civilian life by the President, by and with the advice and consent of the Senate.

‘‘(b) The Deputy Under Secretary of Defense for Personnel and Readiness (Reserve Affairs) shall have as his principal duty the overall supervision of reserve component affairs of the Department of Defense.’’.

(b) EXECUTIVE LEVEL—IV.—Section 5315 of title 5, United States Code, is amended by inserting after ‘‘Deputy Under Secretary of Defense for Personnel and Readiness.’’ the following:

‘‘Deputy Under Secretary of Defense for Personnel and Readiness (Reserve Affairs).’’

SEC. 603. ELIMINATION OF POSITION OF ASSISTANT SECRETARY OF DEFENSE FOR RESERVE AFFAIRS.

(a) REPEAL OF REQUIREMENT FOR POSITION—(1) Repeal of section 128 of title 10, United States Code, is amended—

(i) by striking paragraph (2); and

(ii) by redesignating paragraphs (3), (4), and (5), as paragraphs (2), (3), and (4), respectively.

(b) REDUCTION IN TOTAL NUMBER OF ASSISTANT SECRETARIES OF DEFENSE—(1) Authorized Number.—Subsection (a) of such section is amended by striking ‘‘nine’’ and inserting ‘‘eight’’.

(2) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking ‘‘9’’ after ‘‘Assistant Secretaries of Defense’’ and inserting ‘‘8’’.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date on which a person is first appointed as Deputy Under Secretary of Defense for Personnel and Readiness (Reserve Affairs).

DIVISION B—MILITARY FAMILY PROTECTIONS

TITLE XXI—GUARDSMEN AND RESERVISTS FINANCIAL RELIEF

SEC. 2101. FINDINGS.

(a) Congress makes the following findings:

(1) According to a Government Accountability Office report in November 2004, ‘‘The September 11, 2001, terrorist attacks and the global war on terrorism have triggered the largest activation of National Guard forces since World War II. As of June 2004, over one-half of the National Guard’s 457,000 personnel had been activated for overseas warfighting or domestic homeland security missions in Federal and State active duty roles.’’. In all, over 400,000 reservists have been mobilized between September 11, 2001, and the beginning of 2005.

(2) In March 2003, the General Accounting Office reported that among members of the National Guard and other reserve components of the Armed Forces ‘‘... data for past military operations noted that 41 percent of drilling unit members reported income loss...’’. The report further noted that senior officers in the reserve component reported average losses of $5,000 in income upon activation.

(b) Not only has operation tempo dramatically increased for members of the reserve components at the beginning of such chapter is amended by inserting after section 401(k)(2)(B)(i)(1), (403(b)(7)(A)(ii), 403(b)(11)(A), or 457(d)(1)(A)(ii), an individual shall be treated as having been served from employment during any period the individual is performing service in the uniformed services described in section 3401(i)(2)(A).

(2) D IFFERENTIAL WAGE PAYMENT.—For purposes of this paragraph, the term ‘‘differential wage payment’’ means any payment which—

‘‘(A) is made by an employer to an individual with respect to any period during which the individual is on active duty in the uniformed services while on active duty for a period of more than 30 days, and

‘‘(B) represents all or a portion of the wages which the individual would have received from the employer if the individual were performing service for the employer.’’.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to remuneration paid after September 11, 2001.

SEC. 2104. TREATMENT OF DIFFERENTIAL WAGE PAYMENTS FOR RETIREMENT PLAN PURPOSES.

(a) PENSION PLANS.—(1) In General.—Section 414(u) of the Internal Revenue Code of 1986 (relating to special rules relating to veterans’ reemployment rights under USERRA) is amended by adding at the end the following new paragraph:

‘‘(III) such distribution is made during the period beginning on the date of such order or call to duty.

(b) REDUCTION IN TOTAL NUMBER OF ASSISTANT SECRETARIES OF DEFENSE—(1) Authorized Number.—Subsection (a) of such section is amended by striking ‘‘nine’’ and inserting ‘‘eight’’.

(2) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking ‘‘9’’ after ‘‘Assistant Secretaries of Defense’’ and inserting ‘‘8’’.

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(2) D IFFERENTIAL WAGE PAYMENT.—For purposes of this paragraph, the term ‘‘differential wage payment’’ means any payment which—

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(b) REDUCTION IN TOTAL NUMBER OF ASSISTANT SECRETARIES OF DEFENSE—(1) Authorized Number.—Subsection (a) of such section is amended by striking ‘‘nine’’ and inserting ‘‘eight’’.

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(2) In March 2003, the General Accounting Office reported that among members of the National Guard and other reserve components of the Armed Forces ‘‘... data for past military operations noted that 41 percent of drilling unit members reported income loss...’’. The report further noted that senior officers in the reserve component reported average losses of $5,000 in income upon activation.

(b) Not only has operation tempo dramatically increased for members of the reserve components at the beginning of such chapter is amended by inserting after section 401(k)(2)(B)(i)(1), (403(b)(7)(A)(ii), 403(b)(11)(A), or 457(d)(1)(A)(ii), an individual shall be treated as having been served from employment during any period the individual is performing service in the uniformed services described in section 3401(i)(2)(A).

(2) D IFFERENTIAL WAGE PAYMENT.—For purposes of this paragraph, the term ‘‘differential wage payment’’ means any payment which—

‘‘(A) is made by an employer to an individual with respect to any period during which the individual is on active duty in the uniformed services while on active duty for a period of more than 30 days, and

‘‘(B) represents all or a portion of the wages which the individual would have received from the employer if the individual were performing service for the employer.’’.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to remuneration paid after September 11, 2001.
following new sentence: “The term ‘compensation’ includes any differential wage payment (as defined in section 3401(i)(2)).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SECTION 45J. READY-RESERVE-NATIONAL GUARD EMPLOYEE CREDIT AND READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

(a) Ready-Reserve-National Guard Credit.—

(1) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related employment for the purpose of performing qualified active duty) is amended by inserting after section 45I the following new section:—

"SEC. 45J. READY-RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.—

"(a) General Rule.—For purposes of section 38, in the case of an eligible taxpayer, the Ready Reserve-National Guard employee credit determined under this section for any taxable year with respect to each Ready Reserve-National Guard employee of such taxpayer is an amount equal to 50 percent of the lesser of:

"(1) the actual compensation amount with respect to such employee for such taxable year, or

"(2) $30,000.

"(b) Definition of Actual Compensation Amount.—For purposes of this section, the term ‘actual compensation amount’ means the amount paid or incurred by an eligible taxpayer with respect to a Ready Reserve-National Guard employee on any day when the employee was absent from employment for the purpose of performing qualified active duty.

"(c) Limitations.—No credit shall be allowed with respect to any day that a Ready Reserve-National Guard employee who performs qualified active duty was not scheduled to work (for reasons other than to participate in qualified active duty).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Eligible Taxpayer.—

"(A) In General.—The term ‘eligible taxpayer’ means a small business employer...

"(B) Small Business Employer.—

"(1) In General.—The term ‘small business employer’ means, with respect to any taxable year, any employer who employed an average of 50 or fewer employees during the taxable year with respect to which the credit is allowed. The term ‘small business employer’ includes any differential wage payment (as defined in section 3401(i)(2)).

"(2) Qualified Active Duty.—The term ‘qualified active duty’ means:

"(A) active duty under an order or call for a period in excess of 179 days or for an indefinite period other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 512 of the Internal Revenue Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

"(B) hospitalization incident to such duty.

"(3) Definition of ‘Convocation’ means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer’s gross income under section 162(a).

"(4) Ready Reserve-National Guard Employee.—‘Ready Reserve-National Guard employee’ means an employee who is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in sections 10142 and 10101 of title 10, United States Code.

"(5) Certain Rules to Apply.—Rules similar to the rules of section 52 shall apply.

"(e) Termination.—This section shall not apply to any amount paid or incurred after December 31, 2005.

"(2) Credit to be Part of General Business Credit.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking ‘‘plus’’ at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ‘‘, plus’’, and by adding at the end the following:

"(20) the Ready Reserve-National Guard employee credit determined under section 45J(a)."

"(3) Denial of Double Benefit.—Section 280C(a) of the Internal Revenue Code of 1986 (relating to rules for employment credit) is amended by inserting ‘‘45J(a),’’ after ‘‘45A(a),’’.

"(4) Conforming Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45J the following:

"Sec. 45J. Ready Reserve-National Guard employee credit.”

"(5) Effective Date.—The amendments made by this subsection shall apply to amounts paid or incurred after September 30, 2004, in taxable years ending after such date.

(b) Ready Reserve-National Guard Replacement Employee Credit.—

(1) In General.—Paragraph (1) of section 51(d) of the Internal Revenue Code of 1986 (relating to members of targeted groups) is amended by striking ‘‘or’’ at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ‘‘, or’’, and by adding at the end the following new subparagraph:

"(1) a qualified replacement employee.”

(2) Qualified Replacement Employee.—Section 51(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (10), (11), and (12) as paragraphs (11), (12), and (13), respectively, and by inserting after paragraph (9) the following new paragraph:

"(10) Qualified Replacement Employee.—The term ‘qualified replacement employee’ means an individual who is certified by the designated local agency as being hired by an eligible taxpayer to replace a Ready Reserve-National Guard employee of such taxpayer, but only with respect to the period during which such Ready Reserve-National Guard employee participated in qualified active duty, including time spent in travel status.

(1) General Definitions and Special Rules.—For purposes of this paragraph—

"(1) Eligible Taxpayer.—The term ‘eligible taxpayer’ means a small business employer.

"(2) Small Business Employer.—

"(1) In General.—The term ‘small business employer’ means, with respect to any taxable year, any employer who employed an average of 50 or fewer employees on business days during such taxable year.

"(2) Controlled Groups.—For purposes of subclause (1), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

"(3) Ready Reserve-National Guard Employee.—The term ‘Ready Reserve-National Guard employee’ has the meaning given such term by section 45J(d)(3).

"(4) Qualified Active Duty.—The term ‘qualified active duty’ has the meaning given such term by section 45J(d)(3).

"(5) Certain Problems to Apply.—Rules similar to the rules of section 52 shall apply.

"(6) Termination.—This section shall not apply to any amount paid or incurred after December 31, 2005.

"(7) Credit to be Part of General Business Credit.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking ‘‘plus’’ at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ‘‘, plus’’, and by adding at the end the following:

"(20) the Ready Reserve-National Guard employee credit determined under section 45J(a)."

"(8) Denial of Double Benefit.—Section 280C(a) of the Internal Revenue Code of 1986 (relating to rules for employment credit) is amended by inserting ‘‘45J(a),’’ after ‘‘45A(a),’’.

"(9) Conforming Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45J the following:

"Sec. 45J. Ready Reserve-National Guard employee credit.”

"(10) Effective Date.—The amendments made by this subsection shall apply to amounts paid or incurred after September 30, 2004, in taxable years ending after such date.

(c) Study by GAO.—

(1) In General.—The Comptroller General of the United States shall study the following:

"(A) What, if any, problems exist in recruiting individuals for a reserve component of an Armed Force of the United States.

"(B) What, if any, problems exist as the result of providing differential wage payments (as defined in section 3401(b)(2) of the Internal Revenue Code of 1986 (as added by this Act)) to individuals described in subparagraph (A) in the recruitment and retention of individuals as regular members of the Armed Forces of the United States.

"(C) Whether the credit allowed under section 45J of the Internal Revenue Code of 1986 (as added by this section) is an effective incentive for the hiring and retention of employees who are individuals described in subparagraph (A) and whether there exists any compliance problems in the administration of such credit.

(2) Report.—The Comptroller General of the United States shall report on the results of the study required under paragraph (1) to the Committee on Ways and Means of the House of Representatives before July 1, 2005.
SEC. 2106. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) PRESERVATION OF PAY LEVEL.—
(1) Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§5538. Nonreduction in pay while serving in the uniformed services or National Guard."

"(a) In general.—Section 5538 of title 5, United States Code (as added by subsection (a)), shall apply with respect to pay periods (as described in subsection (b) of such section) beginning on or after the date of the enactment of this Act.

(b) OPEN ENROLLMENT PERIODS.—The Secretary of Defense shall provide for at least one open enrollment period each year. During an open enrollment period, a member eligible under subsection (a) may enroll in the TRICARE program or change or terminate enrollment in the TRICARE program.

(c) SCOPE OF CARE.—(1) A member and the dependents of a member enrolled in the TRICARE program under this section shall be entitled to the same benefits under this chapter as a member of the uniformed services on active duty or a dependent of such a member, respectively.

(d) PREMIUMS.—(1) The Secretary of Defense shall charge premiums for coverage pursuant to enrollments under this section. The Secretary shall prescribe for each of the TRICARE program options referred to in subsection (a) a premium for self alone coverage and a premium for self and family coverage.

(2) The amount of the premium in effect for a month for a type of coverage under this section shall be equal to the amount that is in effect at the time of the enactment of this Act.

(3) The premiums payable by a member under this subsection shall be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 2806 of title 38.

(e) T ERMINATION OF ENROLLMENT.—(1) A member enrolled in the TRICARE program under this subsection may terminate the enrollment only during an open enrollment period provided under subsection (c), except as provided in subsection (h).

(2) An enrollment of a member for self alone or for self and family under this section shall terminate on the first day of the month following the date on which the member ceases to be eligible under subsection (a).

(f) The premium for a member who receives health care pursuant to an enrollment in a TRICARE program option under this section, including a member who receives such health care, shall be subject to the same deductibles, copayments, and other nonpremium charges for health care as apply under this chapter for health care provided under the same TRICARE program option and obtained in the same manner.

SEC. 2201. SHORT TITLE.

This title may be cited as the “National Guard and Reserve Comprehensive Health Benefits Act of 2005.”

SEC. 2202. FINDINGS.

Congress makes the following findings:

(1) According to the results of a Department of Defense survey conducted in 2000, 20 percent of members of the reserve components of the Armed Forces, including 49 percent of junior enlisted personnel, had no health care coverage while not on active duty.

(2) The Army Reserve and the Air Force Reserve contain nearly 10 percent of the Army Reserve.

(3) An enrollment of a member for self alone or for self and family under this section shall terminate on the first day of the month following the date on which the member ceases to be eligible under subsection (a).

(4) The premium for a member who receives health care pursuant to an enrollment in a TRICARE program option under this section, including a member who receives such health care, shall be subject to the same deductibles, copayments, and other nonpremium charges for health care as apply under this chapter for health care provided under the same TRICARE program option and obtained in the same manner.

(5) The enrollment of a member under this section may be terminated on the basis of failure to pay the premium charged to the member under this section.
"(b) RELATIONSHIP TO TRANSITION TRICARE COVERAGE UPON SEPARATION FROM ACTIVE DUTY.—(1) A member may not enroll in the TRICARE program under this section while enrolled in transitional health care under subsection (a) of section 1145 of this title or while authorized to receive health care under subsection (c) of such section.

(2) Who may enroll in the TRICARE program under this section within 90 days after the date of the termination of the member’s entitlement or eligibility to receive premium for continuation of qualified health benefits plan coverage under subsection (a) while serving on active duty pursuant to a call or order issued under a provision of law referred to in section 101(a)(13)(B) of this title, during a war or national emergency declared by the President or Congress.

(1) QUALIFIED HEALTH BENEFITS PLAN COVERAGE.—For the purposes of this section, health benefits plan coverage for a member called or ordered to active duty is qualified health benefits plan coverage if—

(1) the coverage was in force on the date on which the Secretary notified the member that his or her order was pending or, if no such notification was provided, the date of the call or order;

(2) on such date, the coverage applied to the member and dependents of the member described in subparagraph (A), (D), or (I) of section 1072(2) of this title; and

(3) the coverage has not lapsed.

(d) APPLICABLE PREMIUM.—The applicable premium payable under this section for continuation of health benefits plan coverage in the case of a member is the amount of the premium paid by, or on behalf of, the member for the coverage of the member and dependents.

(e) MAXIMUM AMOUNT.—The total amount that may be paid for the applicable premium of a health benefit plan for a member under this section in a fiscal year may not exceed the amount determined by multiplying—

(1) the sum of one plus the number of the member’s dependents covered by the health benefits plan, by

(2) the per capita cost of providing TRICARE coverage and benefits for dependents under the applicable premium under this section, as determined by the Secretary of Defense.

(f) BENEFITS COVERAGE CONTINUATION PERIOD.—The benefits coverage continuation period under this section for qualified health benefits plan coverage in the case of a member called or ordered to active duty is the period that—

(1) begins on the date of the call or order; and

(2) ends on the earlier of the date on which—

(A) the member’s eligibility for transitional health care under section 1145(a) of this title terminates under paragraph (3) of such section; or

(B) the member elects to terminate the continued qualified health benefits plan coverage of the dependents of the member.

(g) EXTENSION OF PERIOD OF COBRA COVERAGE.—Notwithstanding any other provision of law—

(1) any period of coverage under a COBRA continuation provision (as defined in section 4980B(d)(1) of the Internal Revenue Code of 1986) for a member under this section shall be deemed to be equal to the benefits coverage continuation period for such member under this section; and

(2) with respect to the election of any period of coverage under a COBRA continuation provision as so defined, rules similar to the rules under section 4980B(f)(5)(C) of such Code shall apply.

(h) NONDISCUSSION OF BENEFITS.—A dependent of a member who is eligible for benefits under qualified health benefits plan coverage paid on behalf of a member by the Secretary under this section is not eligible for benefits under the TRICARE program during a period of the coverage for which so paid.

(i) REVOCABILITY OF ELECTION.—A member who makes an election under subsection (a) may revoke the election. Upon such a revocation, the member’s dependents shall become eligible for benefits under the TRICARE program as provided for under this chapter.

(j) REGULATIONS.—The Secretary of Defense shall prescribe regulations for carrying out this section. The regulations shall include such requirements for making an election under this section as the Secretary considers appropriate...".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting, in the appropriate place, the following new item:

"1078b. Continuation of non-TRICARE health benefits plan coverage for certain ReserveCalled or ordered to active duty and their dependents."

(b) APPLICABILITY.—Section 1078b of title 10, United States Code (as added by subsection (a)), shall apply with respect to calls or orders of members of reserve components of the Armed Forces to active duty as described in subsection (b) of such section, that are issued by the Secretary of a military department on or after the date of the enactment of this Act.

TITLE XXIII—IMPROVED DEATH GRANTITY AND OTHER SURVIVOR BENEFITS SEC. 2302. INCREASED AMOUNT OF DEATH GRANTIBILITY.

(a) AMOUNT OF DEATH GRATUITY.—Section 1478(a) of title 10, United States Code, is amended by striking "$12,000" in the first sentence and inserting "$100,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 11, 2001, and shall apply with respect to deaths occurring on or after that date.
Iraq has resulted in a commitment of United States resources to reconstruction that otherwise would be available for supporting the efforts of United States military personnel to rid Iraq and Afghanistan of hostile insurgents. (4) Iraq possesses the world’s second largest reserve of crude oil, with 112,000,000,000 barrels, and administration officials have stated on several occasions that revenue from Iraq’s oil industry could fund a significant portion of the costs of the reconstruction of Iraq.

SEC. 3102. REPORT ON ADDITIONAL NEEDS FOR FUNDING MILITARY AND RECONSTRUCTION EFFORTS

(a) REQUIREMENT FOR REPORT.—Whenever the President submits to Congress a request for a supplemental appropriation of funds for use in connection with United States military or reconstruction efforts in Iraq, the President shall submit to the chairmen and ranking members of the appropriate committees of Congress in accordance with this section a report on the status of United States financial commitments to the reconstruction of Iraq.

(b) CONTENT.—The report under subsection (a) shall include the following:

(1) An estimate of the amount of the United States Government funds spent for the reconstruction of Iraq between March 19, 2003, and the date of the report that is attributable to tax revenue collected from United States taxpayers.

(2) An assessment of the activities funded by that amount, together with a discussion of the results that such activities have achieved.

(3) An estimate of the amount of the funds that have been contributed by all other foreign governments for the reconstruction of Iraq and in relief of Iraq’s national debt.

(4) The amount of the crude oil that has been extracted since March 19, 2003, and the total value of that oil in United States dollars.

(c) TIME FOR REPORT.—The President shall submit the report under this section not later than 24 hours after any proposed legislation to provide a supplemental appropriation of funds requested by the President for use in connection with United States military or reconstruction activities in Iraq is introduced in either the Senate or the House of Representatives.

(5) Form.—The report under this section shall be submitted in unclassified form.

SEC. 3104. APPROPRIATE COMMITTEES OF CONGRESS

In this title, the term ‘appropriate committees of Congress’ mean the following committees:

(1) The Committee on Foreign Relations Committee, the Committee on Armed Services, and the Committee on Appropriations of the Senate.

(2) The Committee on International Relations, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.

By Mr. BIDEN (for himself, Mr. REID, Mr. BINGMAN, Ms. MIKULSKI, Mr. DURBIN, Ms. STABENOW, Mr. ROCKEFELLER, Mr. LUTENBERG, and Mr. SCHUMER)

S. 12. A bill to combat international terrorism, and for other purposes; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, I am pleased to join the Democratic Leader in introducing S. 12, a bill to combat international terrorism.

We all know that the primary security threat facing America is from terrorists motivated by a radical Islamic fundamentalism. Once they attack, we have done much to confront this threat, but we must do much more. As the 9/11 Commission reported, we are safer, but we are not yet safe. I know that all Senators are committed to the objective of making our country safer.

We must understand that those who would spread radical Islamic fundamentalism and weapons of mass destruction are beyond the reach of reason—we must defeat them. But hundreds of millions of hearts and minds around the world are open to American ideas and ideals. We must reach them.

This bill contains a range of proposals that are designed to strengthen our anti-terrorism efforts in a broad range of areas. It will strengthen our military by expanding our special forces. It will strengthen our intelligence operations by increasing the fundamental initiative in the government. It will strengthen our public diplomacy by increasing funds for State Department programs, international exchanges, and international broadcasting. It will strengthen our effort to expand basic educational opportunities in the Muslim world and combat radical madrasas. It will strengthen our assistance to non-governmental organizations working to build democratic institutions. It will strengthen our programs to help Russia account for nuclear materials. And it will strengthen our law enforcement by increasing support for cops on the beat—the people
who labor on the front lines of homeland security.

I cannot take credit for every proposal in this bill. Many of them are ideas contributed by my Democratic colleagues. The Democratic Leader has graciously allowed me to be the lead sponsor of this bill, for which I am grateful. I look forward to working with all my colleagues to strengthen America’s defenses against the threat of terrorism—through this and other legislation—in the coming Congress.

Mr. President, 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. 12

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 “Targeting Terrorists More Effectively Act of 2008.”

TITLE I—EFFECTIVELY TARGETING TERRORISTS

SEC. 101. INCREASED STRENGTH OF ARMY SPECIAL OPERATIONS FORCES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the number of the active-duty Army personnel comprising the Army Special Operations Command as of the last day of a fiscal year should be increased as follows:

(1) To 4,644, as of September 30, 2006.
(2) To 5,144, as of September 30, 2007.
(3) To 5,544, as of September 30, 2008.
(4) To 6,144, as of September 30, 2009.

(b) INCREASED ACTIVE FORCES END STRENGTH TO EFFECTUATE POLICY ON INCREASE IN STRENGTH OF ARMY SPECIAL FORCES—

(1) FISCAL YEAR 2006.—Effective on October 1, 2005, section 691(b)(1) of title 10, United States Code, is amended by striking “502,400” and inserting “502,900.”

(2) FISCAL YEAR 2007.—Effective on October 1, 2006, section 691(b)(1) of such title is amended by striking “502,900” and inserting “503,400.”

(3) FISCAL YEAR 2008.—Effective on October 1, 2007, section 691(b)(1) of such title is amended by striking “503,400” and inserting “503,900.”

(4) FISCAL YEAR 2009.—Effective on October 1, 2008, section 691(b)(1) of such title is amended by striking “503,900” and inserting “504,400.”

SEC. 102. FOREIGN LANGUAGE EXPERTISE.

(a) FINDINGS.—Congress makes the following findings:

(1) Success in the global war on terrorism will require a dramatic increase in institutional and personal expertise in the languages of the societies whose terrorism has taken root, including a substantial increase in the number of national security personnel who obtain expert lingual training.

(2) The National Commission on Terrorist Attacks Upon the United States identified the countries in the Middle East, South Asia, Southeast Asia, and West Africa as countries that serve or could serve as terrorist havens. (3) Although 22 countries have Arabic as their official language, the National Commission on Terrorist Attacks Upon the United States found that a total of only 6 undergraduate degrees for the study of Arabic were granted by United States colleges and universities in 1990.

(4) The report of the National Commission on Terrorist Attacks Upon the United States contained several criticisms of the lack of linguistic expertise in the Central Intelligence Agency and the Federal Bureau of Investigation prior to the September 11, 2001 terrorist attacks, and called for the Central Intelligence Agency to “develop a stronger language program, with high standards and sufficient financial incentives.”

(5) The National Security Education Program, which funds critical grant and scholarship programs for linguistic training in regions critical to national security, will have exhausted all its funding by fiscal year 2006, unless additional appropriations are made to the Trust Fund.

(6) The National Security Education Program Trust Fund, which funds critical grant and scholarship programs for linguistic training, has a backlog of hundreds of thousands of untransluted audio recordings from terror and espionage investigations.

(7) The National Security Education Program Trust Fund, which funds critical grant and scholarship programs for linguistic training, has a backlog of hundreds of thousands of untransluted audio recordings from terror and espionage investigations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the overwhelming majority of Muslims reject terrorism and a small, radical minority has grossly distorted the teachings of one of the world’s great faiths to seek justification for acts of terrorism.

(2) Muslim-Americans constitute an integral and cherished part of the fabric of American society and possess many talents, including linguistic, historic, and cultural expertise that should be harnessed in the war against radical, fundamentalist terror; and

(3) amounts appropriated for the National Flagship Language Initiative pursuant to the amendments made by subsection (e)(2) should be used to support the establishment, operation, and improvement of programs for the study of Arabic, Persian, and other Middle Eastern, South Asian, Southeast Asian, and West African languages in institutes of higher education in the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) NATIONAL SECURITY EDUCATION TRUST FUND.—Section L.B. Boren National Security Education Act of 1991 (50 U.S.C. 1911(a)) is amended by adding at the end the following:

“(d) AUTHORIZATION OF APPROPRIATIONS FOR THE FUND FOR FISCAL YEAR 2006.—

“(1) IN GENERAL.—There are authorized to be appropriated to the Fund $150,000,000 for fiscal year 2006.

“(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended and not more than $15,000,000 of such amounts may be obligated and expended during any fiscal year.”.

(2) NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—

(A) IN GENERAL.—Section 81(a) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1911(b)) is amended by inserting “there is authorized to be appropriated to the Secretary for each fiscal year, beginning with fiscal year 2003, $10,000,000” and inserting “for fiscal year 2003 through 2005, $10,000,000, and for each fiscal year after 2005, $20,000,000.”

(B) ADDITIONAL FUNDS.—Section 811(b)(1) of such Act (50 U.S.C. 1911(b)) is amended by inserting “for fiscal years 2003 through 2005 after this section”.

(3) DEMONSTRATION PROGRAM.—There are authorized to be appropriated to the Director of National Intelligence such sums as may be necessary for each of fiscal years 2006, 2007, and 2008 in order to carry out the demonstration program established under subsection (c).

SEC. 103. CURTAILING TERRORIST FINANCING.

(a) FINDINGS.—Congress makes the following findings:

(1) The report of the National Commission on Terrorist Attacks Upon the United States found that “vigorous enforcement of anti-terrorism financing must remain front and center in United States counterterrorism efforts.”

(2) The report of the Independent Task Force sponsored by the Council on Foreign Relations stated that “currently existing U.S. and international policies, programs, strategies, and organizations are inadequate to assure sustained results commensurate with the ongoing threat posed to the national security of the United States.”

(3) The report of the Independent Task Force contained the conclusion that “[l]ong-term success will depend critically upon the structure, integration, and focus of the U.S. Government—and any intergovernmental efforts undertaken to address this problem.”

(b) POLICY.—It is the policy of the United States to—

(1) to work with the Government of Saudi Arabia to curtail terrorist financing originating from that country using a range of methods, including diplomacy, intelligence, and law enforcement;

(2) to ensure effective coordination and sufficient resources for efforts of the agencies and departments of the United States to disrupt terrorist financing by carrying out, through the Office of Terrorism and Financial Intelligence in the Department of the Treasury, a comprehensive analysis of the budgets and activities of all such agencies and departments that are related to disrupting the financing of terrorist organizations;

(3) to provide each agency or department of the United States with the appropriate number of personnel to carry out the activities of such agency or department related to disrupting the financing of terrorist organizations;

(4) to centralize the coordination of the efforts of the United States to disrupt terrorist financing and utilize existing authorities to identify foreign jurisdictions and foreign financial institutions suspected of abetting terrorist financing and take actions to prevent the provision of assistance to terrorists; and

(5) to work with other countries to develop and enforce strong domestic anti-terrorist financing laws, and increase funding for bilateral and multilateral programs to enhance training and capacity-building in countries where request assistance.

(c) AUTHORIZATION OF APPROPRIATIONS TO PROVIDE TECHNICAL ASSISTANCE TO PREVENT FINANCING OF TERRORISTS.—

(A) IN GENERAL.—The amounts authorized to be appropriated to the President for the “Economic Support Fund” to provide technical assistance under the provisions of chapter 4 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.) to foreign countries to assist such countries in preventing the financing of terrorist activities—

(1) for fiscal year 2006, $30,000,000; and

(2) for fiscal years 2007 and 2008, such sums as may be necessary.

(B) ADDITIONAL FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection are authorized to remain available until expended.

(3) ADDITIONAL FUNDS.—Amounts authorized to be appropriated in this section are in addition to amounts otherwise available for such purposes.
SEC. 104. PROHIBITION ON TRANSACTIONS WITH COUNTRIES THAT SUPPORT TERRORISM.

(a) CLARIFICATION OF CERTAIN ACTIONS UNDER IEEPA.—In any case in which the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) with respect to a foreign country, or persons dealing with or associated with the government of that foreign country, as a result of a determination by the Secretary of the Treasury that the government of that foreign country has repeatedly provided support for acts of international terrorism, such action shall apply to a United States person or other person.

(b) DEFINITIONS.—In this section:

(1) CONTROLLED IN FACT.—The term “controlled in fact” includes:

(A) in the case of a corporation, holds at least 50 percent (by vote or value) of the capital structure of the corporation; and

(B) in the case of any other kind of legal entity, holds interests representing at least 50 percent of the capital structure of the entity.

(2) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories or possessions of the United States.

(3) UNITED STATES PERSON.—The term “United States person” includes any United States citizen, permanent resident alien, entity organized under the law of the United States or of any State (including foreign branches), and other territories or possessions of the United States.

(c) APPLICABILITY.—

(1) IN GENERAL.—In any case in which the President has taken action under the International Emergency Economic Powers Act and such action is in effect on the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person or other person if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action under the International Emergency Economic Powers Act or after the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person or other person if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of such action.

(d) NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

“SEC. 42. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.—The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.”

TITLE II—PREVENTING THE GROWTH OF RADICAL ISLAMIC FUNDAMENTALISM

Subtitle A—Quality Educational Opportunities

SEC. 201. FINDINGS, POLICY, AND DEFINITION.

(a) FINDINGS.—Congress makes the following findings:

(1) The report of the National Commission on Terrorist Attacks Upon the United States stated that “[e]ducation that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate Islamic extremism.

(2) According to the United Nations Development Program Arab Human Development Report for 2002, 10,000,000 children between the ages of 6 and 15 in the Arab world do not attend school, and ½ of the 65,000,000 illiterate adults in the Arab world are women.

(3) The report of the National Commission on Terrorist Attacks Upon the United States concluded that ensuring educational opportunity is essential to the efforts of the United States to defeat global terrorism and promote democratic and communist countries.

(b) POLICY.—It is the policy of the United States—

(1) to work toward the goal of dramatically increasing the availability of basic education in the developing world, which will reduce the influence of such mass and the other institutions that promote religious extremism;

(2) to work with other countries in generously supporting the International Youth Opportunity Fund authorized under section 7114 of the 9/11 Commission Implementation Act of 2004 (Public Law 108-458) with the goal of building and operating primary and secondary schools in Muslim countries that commit to sensibly investing financial resources in public education;

(c) ADDITIONAL FUNDS.—Amounts appropriated to be appropriated to the President for ‘‘Development Assistance’’ for international education programs carried out under sections 105 and 496 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151c and 2159a) for fiscal years 2006, 2007 and 2008, may be necessary.

(b) POLICY.—There are authorized to be appropriated to the President for ‘‘Development Assistance’’ for international education programs carried out under sections 105 and 496 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151c and 2159a) for fiscal years 2006, 2007 and 2008, such sums as may be necessary.

(b) ADDITIONAL FUNDS.—Amounts appropriated to be appropriated to the President for ‘‘Development Assistance’’ for international education programs carried out under sections 105 and 496 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151c and 2159a) for fiscal years 2006, 2007 and 2008, may be necessary.

(b) POLICY.—There are authorized to be appropriated to the President for ‘‘Development Assistance’’ for international education programs carried out under sections 105 and 496 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151c and 2159a) for fiscal years 2006, 2007 and 2008, such sums as may be necessary.

(b) ADDITIONAL FUNDS.—Amounts appropriated to be appropriated to the President for ‘‘Development Assistance’’ for international education programs carried out under sections 105 and 496 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151c and 2159a) for fiscal years 2006, 2007 and 2008, may be necessary.

(b) POLICY.—There are authorized to be appropriated to the President for ‘‘Development Assistance’’ for international education programs carried out under sections 105 and 496 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151c and 2159a) for fiscal years 2006, 2007 and 2008, such sums as may be necessary.

(b) ADDITIONAL FUNDS.—Amounts appropriated to be appropriated to the President for ‘‘Development Assistance’’ for international education programs carried out under sections 105 and 496 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151c and 2159a) for fiscal years 2006, 2007 and 2008, may be necessary.
SEC. 212. MIDDLE EAST FOUNDATION.

(a) Purposes.—The purposes of this section are to support, through the provision of grants, technical assistance, training, and other programs in the Middle East and Southeast Asia to support democratic parties, human rights organizations, independent media, and the efforts to promote the rights of women;

(b) Middle East Foundation.—

(1) Designation.—The Secretary of State is authorized to designate an appropriate nonprofit foundation that is organized or incorporated under the laws of the United States or a State as the Middle East Foundation (referred to in this section as the “Foundation”).

(2) Funding.—The Secretary of State shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives prior to designating an appropriate organization as the Foundation.

(3) Notification to congressional committees.—The Secretary of State shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives prior to designating an appropriate organization as the Foundation.

(4) Foundation to make grants.—The Secretary of State shall enter into an agreement with the Foundation that requires the Foundation to grant such funds to persons (other than governments or government entities) located in the Middle East or with local partners based in the Middle East to carry out projects that support the purposes specified in subsection (a).

(5) Center for public policy.—Under the agreement described in paragraph (4), the Foundation may make a grant to an institution of higher education located in the Middle East to create a center for public policy for the Foundation to assist in programs and from the Middle East and to promote broad economic, social, and political reform for the people of the Middle East.

(6) Applications for grants.—An entity seeking a grant from the Foundation under this section shall submit an application to the Foundation at such time and in such manner, and including such information as the head of the Foundation may reasonably require.

(b) Operations of the Foundation.—Nothing in this section shall be construed to—

(1) make the Foundation an agency or establishment of the United States Government, or to make the officers or employees of the Foundation officers or employees of the United States for purposes of title 5, United States Code; or

(2) to impose any restriction on the Foundation’s receipt of funds from private and public sources in support of its activities consistent with the purposes of this section.

(c) Limitation on payments to Foundation personnel.—The funds provided to the Foundation under this section shall inure to the benefit of any officer or employee of the Foundation, except as salary or reasonable compensation for services.

(d) Retention of interest.—The Foundation shall be responsible for the prudent use of interest earned on amounts provided to the Foundation under this section. The Foundation shall use amounts provided to the Foundation under this section for such purposes, and may retain for further appropriation by Congress.

(e) Financial accountability.—

(1) Independent private audits of the Foundation.—The accounts of the Foundation shall be audited annually in accordance with generally accepted auditing standards by independent, certificated public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States or other entity of the United States. Such independent audit shall be included in the annual report required by subsection (h).

(2) Grant audits.—The financial transactions undertaken pursuant to this section by the Foundation may be audited by the General Accounting Office in accordance with such principal provisions of applicable law and regulations as the Comptroller General of the United States may prescribe.

(3) Audits of grant recipients.—

(A) In general.—A recipient of a grant from the Foundation shall agree to permit an audit of the books and records of such recipient related to the use of the grant funds.

(B) Recordkeeping.—Such recipient shall maintain appropriate books and records to facilitate an audit referred to in subparagraph (A), including—

(i) separate accounts with respect to the grant funds;

(ii) records that fully disclose the use of the grant funds;

(iii) records describing the total cost of any project carried out using grant funds; and

(iv) the amount and nature of any funds received from other sources that were combined with the grant funds to carry out a project.

(h) Annual reports.—Not later than January 31, 2006, and annually thereafter, the Foundation shall submit to Congress and make available to the public an annual report that includes, for the fiscal year prior to the fiscal year in which the report is submitted, a comprehensive and detailed description of—

(1) the operations and activities of the Foundation for the fiscal year out using funds provided under this section;

(2) grants made by the Foundation to other entities with funds provided under this section;

(3) other activities of the Foundation to further the purposes of this section; and

(4) the financial condition of the Foundation.

Subtitle C—Restoring American Moral Leadership

SEC. 221. ADVANCING UNITED STATES INTERESTS THROUGH PUBLIC DIPLOMACY.

(a) Findings.—Congress makes the following findings:

(1) The United States needs to improve its communication of information and ideas to people in foreign countries, particularly in countries with significant Muslim populations.

(2) Public diplomacy should reaffirm the paramount commitment of the United States to the promotion of democracy, human rights, and the protection of the civil liberties of all the people of the United States, including Muslim-Americans.

(3) The report of the National Commission on Terrorist Attacks Upon the United States stated that, “Recognizing that Arab and Islamic audiences rely on television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.”

(4) A significant expansion of United States international broadcasting would provide a cost-effective means of improving civil society and democratic policy objectives during a crisis abroad.

(5) The United States needs to improve its communication of information and ideas to people in foreign countries, particularly in countries with significant Muslim populations.

(6) The Broadcasting Board of Governors, which serves the civil liberties of all the people of the United States, particularly in countries with significant Muslim populations.
(1) IN GENERAL.—In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated to carry out United States Government activities in the printed report:

(a) United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1972 (22 U.S.C. 6201 et seq.), and the Foreign Affairs Reform and Restructuring Act of 1996 (as enacted in division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1996; Public Law 104-113), and this Act, and to carry out other authorities in law consistent with such purposes:

(i) INTERNATIONAL BROADCASTING OPERATIONS.—For “International Broadcasting Operations”, $497,000,000 for the fiscal year 2006.

(ii) BROADCASTING CAPITAL IMPROVEMENTS.—For “Broadcasting Capital Improvements”, $70,000,000 for the fiscal year 2006.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this section are authorized to remain available until expended.

SEC. 222. DEPARTMENT OF STATE PUBLIC DIPLOMACY PROGRAMS.

(a) UNITED STATES EDUCATIONAL, CULTURAL, AND PUBLIC DIPLOMACY PROGRAMS.—There is authorized to be appropriated for the Department of State to carry out diplomatic programs of the Department under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Foreign Affairs Reform and Restructuring Act of 1998, the Center for Cultural and Interchange Between East and West Act of 1960, the Dante B. Fascell North-South Center Act of 1991, and the National Endowment for Democracy Act, and to carry out other authorities in law consistent with the purposes of such Acts for “Educational and Cultural Exchange Programs”, $350,000,000 for the fiscal year 2006.

(b) ADMINISTRATION OF FOREIGN AFFAIRS.—The is authorized to be appropriated for the Department of State under “Administration of Foreign Affairs” to carry out the authorities, functions, duties, and responsibilities in the conduct of foreign affairs of the United States, and for other purposes authorized by law—Diplomatic and Consular Programs, $12,000,000 for the fiscal year 2006, which shall only be available for public diplomacy international programming.

SEC. 223. TREATMENT OF DETAINEES.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Carrying out the global war on terrorism requires the development of policies with respect to the detention and treatment of operational or non-operational terrorists that are adhered to by coalition forces.

(2) Article 3 of the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316), was adhered to by all coalition forces.

(b) POLICY.—The policy of the United States shall be to:

(1) Treat all foreign persons captured, detained, interned, or otherwise held in the custody of the Government of the United States (‘‘detainees’’) humanely and in accordance with the legal obligations under United States law and international law, including the obligations in the Convention Against Torture and in the minimum standards set forth in the Geneva Conventions.

(2) To the extent that the policy of the United States is that all officials of the United States are bound both in wartime and in peacetime by the legal prohibitions against torture, cruel, inhuman, or degrading treatment or punishment set out in the Constitution, laws, and treaties of the United States.

(3) If there is any doubt as to whether a detainee is entitled to the protections afforded by the Geneva Conventions, it is the policy of the United States that such detainees shall be afforded the protections relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316) until such time as the detainee’s status can be determined pursuant to the procedures authorized by Army Regulation 190-8, Section 1-6.

(4) It is the policy of the United States to provide individualized hearings for all detainees for the purpose of expeditiously holding detainees accountable for violations of the law of war, other relevant international prohibitions, or other laws to have been committed by such detainees or to expediently conduct intelligence debriefings of such detainees.

(5) It is the policy of the United States to avoid the indefinite detention of any individual in a manner which is contrary to the legal principles and security interests of the United States.

(c) REPORTING.—The Secretary shall submit to the appropriate congressional committees:

(1) A quarterly report providing the number of detainees who were denied prisoner of war status under the Geneva Conventions and the basis for denying such status to each such detainee.

(2) Not later than 180 days after the date of the enactment of this Act, a report setting forth:

(A) The proposed schedule for military commissions to be held at Guantanamo Bay, Cuba; and

(B) The number of individuals currently held at Guantanamo Bay, Cuba, the number of such individuals who are unlikely to face a military commission in the next six months, and each condition upon which such individuals before a possible military commission.

(3) Not later than 15 days after the date of the enactment of this Act, an International Committee of the Red Cross reports, completed prior to the enactment of this Act, concerning the treatment of detainees in United States custody at Guantanamo Bay, Cuba, Iraq, and Afghanistan. Such reports should be provided, in classified form.

(4) Not later than 90 days after the date of the enactment of this Act, a report setting forth all interrogation techniques approved, as of the date of the enactment of this Act, by officials of the United States for use with detainees.

(d) ANNUAL TRAINING REQUIREMENT.—The Secretary of Defense shall certify to the appropriate congressional committees, no later than June 1 of each year, that all Federal employees and civilian contractors engaged in the handling or interrogating of detainees have fulfilled an annual training requirement on the laws of war, the Geneva Conventions, the Convention Against Torture, and the obligations of the United States under international law.

(e) PROHIBITION ON TORTURE OR CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) GENERAL.—No detainee shall be subject to torture or cruel, inhumane, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) RELATIONSHIP TO GENEVA CONVENTIONS.—Nothing in this section shall affect the relevant provisions of any Geneva Convention or whether any person is entitled to the protections of the Geneva Conventions.

(f) RULES, REGULATIONS, AND GUIDELINES.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prescribe the rules, regulations, or guidelines necessary to ensure compliance with the prohibitions in subsection (e)(1) by all personnel of the United States Government and by any person providing services to the United States Government on a contract basis.

(2) REPORT TO CONGRESS.—The Secretary shall submit to Congress the rules, regulations, or guidelines prescribed under paragraph (1), and any modifications to such rules, regulations, or guidelines.

(g) DEFINITIONS.—In this section:

(A) not later than 30 days after the effective date of such rules, regulations, guidelines, or guidelines, the Committee on Armed Services, the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Appropriations, shall report on any investigation of a possible violation of the prohibition in subsection (e)(1) by United States Government personnel or by any person providing services to the United States Government on a contract basis.

(1) REQUIREMENT.—The Secretary and the Director shall submit, on a timely basis and not less than twice each year, a report to Congress on the circumstances surrounding, and a status report on, any investigation of probable violations of the prohibition in subsection (e)(1) by United States Government personnel or by any person providing services to the United States Government on a contract basis.

(h) REPORTS.—A report required under paragraph (1) shall be submitted in a manner and form that—

(A) will protect the national security interests of the United States.

(B) will not prejudice any prosecution of an individual alleged to have violated the prohibition in subsection (e)(1).

(i) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘‘appropriate congressional committees’’ means—

(A) the Committee on Armed Services, the Committee on the Judiciary, and the Committee on Foreign Relations of the Senate and the Committee on Armed Services, the Committee on the Judiciary, and the Committee on International Relations of the House of Representatives.

(B) CONVENTION AGAINST TORTURE.—The term ‘‘Convention Against Torture’’ means the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

(3) DIRECTOR.—The term ‘‘Director’’ means the Director of National Intelligence.

4. CONVENTIONS.—The term ‘‘Geneva Conventions’’ means—

(A) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in Time of War, done at Geneva August 12, 1949 (6 UST 3145); and

(B) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217).

(C) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(D) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(5) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of Defense.

5. ‘‘INHUMANE’’ means the having the meaning given that term in section 2340 of title 18, United States Code.
SEC. 224. NATIONAL COMMISSION TO REVIEW POLICY REGARDING THE TREATMENT OF DETAINED INDIVIDUALS.

(a) Establishment of Commission.—There is established the National Commission to Review Policy Regarding the Treatment of Detainees.

(b) Purpose.—The purposes of the Commission are as follows:

(1) To examine and report upon the role of policymakers in the development of intelligence related to the treatment of individuals detained during Operation Iraqi Freedom or Operation Enduring Freedom.

(2) To report on the impact of the abuse of prisoners by the United States personnel on the security of the Armed Forces of the United States.

(3) To build upon the reviews of the policies of the United States related to the treatment of individuals detained by the United States, including such reviews conducted by the executive branch, Congress, or other entities.

(c) Composition of the Commission.—

(1) Members.—The Commission shall be composed of 18 members, any of whom shall be appointed by the majority leader of the Senate or the minority leader of the Senate.

(2) Chairperson; Vice Chairperson.—

(A) In general.—Subject to subparagraph (B), the Chairperson or the Chairperson of a majority of its members shall be elected by the members.

(B) Political party affiliation.—The Chairperson and Vice Chairperson may not be from the same political party.

(3) Initial meeting.—Once 9 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary chairperson, who may begin the operations of the Commission, including the hiring of staff.

(4) Quorum; Vacancies.—After its initial meeting, the Commission shall meet upon the call of any 9 members or a majority of its members. Eight members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(5) Sense of Congress on qualifications of Commission members.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in the field of human rights, intelligence, or foreign affairs, or experience serving the United States Government, including service in the Armed Forces.

(d) Functions of the Commission.—The functions of the Commission are—

(1) to conduct an investigation that shall include the development of policy relating to individuals detained during Operation Iraqi Freedom or Operation Enduring Freedom;

(2) to determine whether the United States policy related to the treatment of detained individuals has adversely affected the security of the members of the Armed Forces of the United States and the national security; and

(3) to determine whether and to what extent the incidences of abuse of detained individuals has affected the standing of the United States in the world;

(4) to determine whether and to what extent leaders of the United States Armed Forces and their advisors have influenced policy relating to treatment of detained individuals; and

(5) to determine whether and to what extent policy relating to treatment of individuals detained during Operation Iraqi Freedom or Operation Enduring Freedom differed from the policies and practices relating to detentions established by the Armed Forces prior to such operations; and

(6) to submit to the President and Congress such report and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(e) Powers of the Commission.—

(1) In general.—

(A) Hearings and evidence.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this section—

(i) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(ii) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, X-ray, letters, cables, electronic messages, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(B) Subpoenas.—

(i) Issuance.—Subpoenas issued under subparagraph (A)(ii) may be issued under the signature of the Chairperson of the Commission, the Vice Chairperson of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the Chairperson, subcommittee chairperson, or member.

(ii) Enforcement.—

(A) In general.—In the case of contumacy or failure to obey a subpoena issued under subparagraph (A)(ii), the Chairperson or the Chairperson of a majority of its members, or a majority of its members, may bring the matter before the grand jury of the district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returned unexecuted, or may cause such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(B) Additional enforcement.—In the case of any failure with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(2) Closed meetings.—

(A) In general.—Meetings of the Commission may be closed to the public under section 5 of the Federal Advisory Committee Act (44 U.S.C. App.) or other applicable law.

(B) Additional authority.—In addition to the authority under subparagraph (A), the Secretary of Defense, the Judge Advocate General of the Army, the Judge Advocate General of the Navy, and the Judge Advocate General of the Air Force, may, in the judgment of such officers, close to the public meetings of any subcommittee or member thereof, may, to the extent advisable.

(3) Assistance from Federal Agencies.—The Commission shall have the same privileges and immunities as a duly organized and independent establishment, or instrumentality of the Government, including the privilege of giving testimony, to receive evidence, to designate and secure the attendance of witnesses, to compel the production of documents and other evidence, and to administer oaths.

(4) Other Departments and Agencies.—In addition to the assistance prescribed in subparagraph (A), departments and agencies of the United States are authorized to provide the Commission, any subcommittee, or member thereof, with such staff as they may determine advisable and as may be authorized by law.

(f) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(h) Staff of the Commission.—

(1) Appointment and compensation.—

(A) In general.—The executive director and any personnel of the Commission who are employees shall be employees under sections 101 and 105 of title 5, United States Code, for purposes of chapters 31, 81, and 85 of title 5, United States Code, and subchapter 315 of chapter 51 of title 5, United States Code.

(B) Personnel of Federal Employers.—

(i) In general.—The executive director and any personnel of the Commission who are employees shall be employees under section 101 of title 5, United States Code, for purposes of chapters 31, 81, 83, 84, 85, 87, 89, and 90 of that title.

(ii) Classified and General Schedule pay rates.—In addition to the authority to determine pay rates for employees under section 1, the pay rates provided in the General Schedule under title 5, United States Code, shall apply.

(2) Assistant from Federal Employees.—

(A) In general.—The executive director and any personnel of the Commission who are employees shall be employees under section 101 of title 5, United States Code, for purposes of chapters 61, 81, 83, 84, 85, 87, 89, and 90 of that title.

(3) Employment of Commission.—

(A) In general.—The Commission may be detailed to a member of the Commission.

(B) Personnel of Federal Employers.—

(i) In general.—Any Federal Government employee who is detailed to the Commission shall be without reimbursement from the Commission, and such detail shall retain the rights, status, and privileges of his or her regular employment with the Commission.

(4) Consultant Services.—The Commission is authorized to procure the services of
experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(g) COMPENSATION AND TRAVEL EXPENSES.—(1) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 703(b) of title 5, United States Code.

(h) SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.—The appropriate departments and agencies of the Government shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances, consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

(i) REPORT OF THE COMMISSION.—Not later than 9 months after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress a report containing such findings, conclusions, and recommendations as have been agreed to by a majority of Commission members.

(j) TERMINATION.—(1) TERMINATION.—The Commission, and all the authorities of this section, shall terminate 60 days after the date on which the report is submitted under subsection (i).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including conducting hearings to consider matters of Congress concerning its reports and disseminating the second report.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission to carry out this section $5,000,000, to remain available until expended.

SUBTITLE D—Strategy for the United States Relationship With Afghanistan, Pakistan, and Saudi Arabia

SEC. 231. AFGHANISTAN.

(a) AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.—Section 108(a) of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7519(a)) is amended by striking “such sums as may be necessary for each of the fiscal years 2005 and 2006” and inserting “$2,400,000,000 for fiscal year 2006 and such sums as may be necessary for each of the fiscal years 2007 and 2008”.

(b) OTHER AUTHORIZATIONS OF APPROPRIATIONS.—(1) Fiscal year 2006.—There are authorized to be appropriated to the President for providing assistance for Afghanistan in a manner consistent with the provisions of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.) for fiscal year 2006—

(A) for “International Military Education and Training”, $1,000,000,000 to carry out the provisions of section 541 of the Foreign Assistance Act of 1961 (2 U.S.C. 2346 et seq.); and

(B) for “Foreign Military Financing Program” grants, $444,000,000 to carry out the provisions of section 23 of the Arms Export Control Act (22 U.S.C. 2761); and

(C) for “Peacekeeping Operations”, $30,000,000 to carry out the provisions of section 551 of the Foreign Assistance Act of 1961 (22 U.S.C. 2348b).

(2) Fiscal years 2007 and 2008.—(A) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated for each of the purposes described in subparagraphs (A) through (C) of paragraph (1) such sums as may be necessary for each of the fiscal years 2007 and 2008.

(B) SENSE OF CONGRESS.—It is the sense of Congress that the amount appropriated for each purpose described in subparagraphs (A) through (C) of paragraph (1) for fiscal years 2007 and 2008 should be an amount that is equal to 125 percent of the amount appropriated for that purpose during the preceding fiscal year.

(C) OTHER FUNDS.—Amounts authorized to be appropriated under this section are in addition to amounts otherwise available for such purposes.

SEC. 232. PAKISTAN.

(a) FINDINGS.—Congress makes the following findings:

(1) Since September 11, 2001, the Government of Pakistan has been an important partner in helping the United States remove the Taliban regime in Afghanistan and combating international terrorism in the frontier provinces of Pakistan.

(2) There remain a number of critical issues that threaten to disrupt the relationship between the United States and Pakistan, undermine international security, and destabilize Pakistan, including—

(A) curbing the proliferation of nuclear weapons technologies;

(B) combating poverty and corruption;

(C) building effective government institutions, especially secular public schools;

(D) promoting rule of law, particularly at the national level; and

(E) effectively dealing with Islamic extremism.

(b) POLICY.—It is the policy of the United States—

(1) to work with the Government of Pakistan to combat international terrorism, especially in the frontier provinces of Pakistan;

(2) to establish a long-term strategic partnership with the Government of Pakistan to address the issues described in subparagraphs (A) through (E) of subsection (a)(2); and

(3) to dramatically increase funding for United States Agency for International Development and other assistance programs that assist Pakistan in addressing such issues, if the Government of Pakistan demonstrates a commitment to building a moderate, democratic state; and

(4) to work with the international community to secure additional financial and political support to effectively implement the policies described in this subsection and help to resolve the dispute between the Government of Pakistan and the Government of India over the disputed territory of Kashmir.

(c) STRATEGY ON PAKISTAN.—

(1) REQUIREMENT FOR REPORT ON STRATEGY.—Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report, in classified form if necessary, that describes the long-term strategy of the United States to engage with the Government of Pakistan to confront the issues described in subparagraphs (A) through (E) of subsection (a)(2) in order accomplish the goal of building a moderate, democratic state.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection the term “appropriate congressional committees” means the Committee on Appropriations and the Committee on Foreign Relations in the Senate, and the Committee on Appropriations and the Committee on Foreign Relations of the House of Representatives.

(d) NUCLEAR PROLIFERATION.—(1) FINDING.—Congress finds that Pakistan's current assistance to and nuclear proliferation network would be inconsistent with Pakistan being considered an ally of the United States.

(2) LIMITATION ON ASSISTANCE TO PAKISTAN.—None of the funds appropriated for a fiscal year to provide military or economic assistance to the Government of Pakistan may be made available for such purpose unless the President submits to Congress for such fiscal year a certification that no military or economic assistance provided by the United States to the Government of Pakistan will be provided, either directly or indirectly, to a person that is opposing or undermining the efforts of the United States Governor to halt the proliferation of nuclear weapons.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) IN GENERAL.—There are authorized to be appropriated to the President for providing assistance for Pakistan for fiscal year 2006—

(A) for “Development Assistance”, $50,000,000 to carry out the provisions of section 103, 105, and 106 of the Assistance Act of 1961 (22 U.S.C. 2151a, 2151c, and 2151d); and

(B) for the “Child Survival and Health Programs Fund”, $35,000,000 to carry out the provisions of sections 104 of the Assistance Act of 1961 (22 U.S.C. 2151b);

(C) for the “Economic Support Fund”, $250,000,000 to carry out the provisions of chapter 4 of part II of the Assistance Act of 1961 (22 U.S.C. 2146 et seq.);

(D) for “International Narcotics and Law Enforcement”, $50,000,000 to carry out the provisions of section 401 of the Assistance Act of 1961 (22 U.S.C. 2291);

(E) for “Nonproliferation, Anti-Terrorism, Demining, and Related Programs”, $10,000,000;

(F) for “International Military Education and Training”, $2,000,000 to carry out the provisions of section 541 of the Assistance Act of 1961 (22 U.S.C. 2347); and

(G) for “Foreign Military Financing Program”, $300,000,000 grants to carry out the provisions of section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(2) OTHER FUNDS.—Amounts authorized to be appropriated under this section are in addition to amounts otherwise available for such purposes.

SEC. 233. SAUDI ARABIA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Kingdom of Saudi Arabia has an uneven record in the fight against terrorism, especially with respect to terrorist financiers who are based there; a lack of political outlets for its citizens, that poses a threat to the security of the United States, the international community, and the Kingdom of Saudi Arabia itself.

(2) The United States has a national security interest in working with the Government of Saudi Arabia to combat international terrorism, especially to combat terrorism that that nation or that operate outside Saudi Arabia with the support of citizens of Saudi Arabia.
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(3) In order to more effectively combat terrorism, the Government of Saudi Arabia must undertake a number of political and economic reforms, including increasing anti-terrorism conducted by law enforcement agencies, providing more political rights to its citizens, increasing the rights of women, engaging in comprehensive educational programs, monitoring members of charitable organizations, promulgating and enforcing domestic laws and regulation on terrorist financial support.

(b) Policy.—It is the policy of the United States—
(1) to engage with the Government of Saudi Arabia to prevent the issuance of terrorism, as well as other problematic issues such as the lack of political freedoms, with the goal of restructuring the relationship so that the political leaders of both nations can publicly support;
(2) to enhance counterterrorism cooperation with the Government of Saudi Arabia, if the political leaders of such Government are committed to making a serious, sustained effort to combat terrorism; and
(3) to support the efforts of the Government of Saudi Arabia to make political, economic, and social reforms throughout the country.

(c) STRATEGY ON SAUDI ARABIA.—
(1) REQUIREMENT FOR REPORT ON STRATEGY.—Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report, in classified form if necessary, that describes the long-term strategy of the United States—
(A) to engage with the Government of Saudi Arabia to facilitate political, economic, and social reforms that will enhance the ability of the Government of Saudi Arabia to prevent terrorism; and
(B) to effectively prevent the financing of terrorists in Saudi Arabia.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection the term ‘‘appropriate congressional committees’’ means the Committee on Appropriations and the Committee on Foreign Relations in the Senate, and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

TITLe III—PROTECTION FROM TERRORIST ATTACKS THAT UTILIZE NUCLEAR, CHEMICAL, BIOLOGICAL, AND RADIOLOGICAL WEAPONS

Subtitle A—Non-Proliferation Programs

SEC. 301. REPEAL OF LIMITATIONS TO THREAT REDUCTION ASSISTANCE.

Section 5 of S. 2930 of the 108th Congress (the ‘‘Nunn-Lugar Cooperative Threat Reduction Act of 2004’’), as introduced on November 16, 2004, is hereby enacted into law.

SEC. 302. REUSE OF RUSSIAN NUCLEAR FACILITIES.

(a) IN GENERAL.—The Secretary of Energy shall work with the Minister of Atomic Energy of Russia to carry out a program to close or convert to non-defense work one or more of the following elements: re-assembly and dis-assembly facilities in Russia.

(b) DESIGNATION OF FACILITIES.—The Secretary of Energy and the Minister of Atomic Energy of Russia shall jointly designate each facility to be covered by the program under subsection (a).

(c) COMMISSIONS TO PROVIDE ADVICE AND RECOMMENDATIONS.—
(1) IN GENERAL.—Not later than two months after the designation of a facility under subsection (b), the Secretary of Energy shall establish a commission to provide advice and recommendations on the closure or conversion of the facility to non-defense work.

(2) COMMISSION MEMBERSHIP.—Each commission established under paragraph (1) shall consist of such personnel, including Russian nationals, as the Secretary considers appropriate for its work. The names of each member of each commission shall be made public upon designation of the commission.

(3) PERSONNEL MATTERS.—
(A) COMPENSATION.—Each member of a commission established under paragraph (1) who is an employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of such member or any other member of a commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(B) TRAVEL EXPENSES.—The members of a commission established under paragraph (1) may include per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 1 of chapter 57 of title 5, United States Code, with their homes or regular places of business in the performance of services for such commission.

(C) FACWA.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to any activities of a commission established under paragraph (1).

(4) OPEN MEETINGS.—The meetings of any commission under paragraph (1), shall, to the maximum extent practicable, be open to the public.

(d) PROPOSED FACILITY REUSE PLAN.—
(1) REQUIREMENT FOR PROPOSED PLAN.—Not later than six months after the designation of a facility under subsection (b), the commission for the facility under subsection (c) shall submit to the Secretary of Energy and the Minister of Atomic Energy of Russia a proposed plan on the closure or conversion of the facility to non-defense work.

(2) ELEMENTS OF PROPOSED PLAN.—A proposed plan submitted under paragraph (1) may include one or more of the following elements:

(A) A description of the threat that would be posed by the theft of Russian tactical nuclear weapons.

(B) An assessment of the threat that would be posed by the theft of Russian tactical nuclear weapons.

(C) A plan for developing with Russia a cooperative threat reduction program, based on the report under subsection (a), to secure, dismantle, and, as appropriate, dismantle Russian tactical nuclear weapons.

(D) The commitment of Russia to pay at least 15 percent of the costs of the final plan.

(E) Milestones for the final plan, including a deadline for the closure or conversion of the facility to non-defense work.

(F) Appropriate auditing and accounting mechanisms.

(3) AVAILABILITY OF PROPOSED PLAN.—Any proposed plan submitted under paragraph (1) shall be made public upon its submission.

(e) FINAL FACILITY REUSE PLAN.—
(1) REQUIREMENT FOR FINAL PLAN.—Not later than nine months after receiving a proposed plan submitted under section (d), the Secretary of Energy and the Minister of Atomic Energy of Russia shall jointly develop a final plan on the closure or conversion of the facility to non-defense work.

(2) ELEMENTS OF FINAL PLAN.—A final plan for a facility under paragraph (1) shall include the following:

(A) Any of the elements specified in subsection (f).

(B) Assurance of access to the facility necessary to carry out the final plan.

(C) Resolution of any matters relating to liability and taxation.

(D) An estimate of the costs of the United States, and of Russia, under the final plan.

(E) The commitment of Russia to pay at least 15 percent of the costs of the final plan.

(F) Milestones for the final plan, including a deadline for the closure or conversion of the facility to non-defense work.

(G) Appropriate auditing and accounting mechanisms.

(f) PLAN ELEMENTS.—The plan for a facility under subsection (d) or (e) may include one or more of the following elements:

(1) A retraining program for facility employees.

(2) Economic incentives to attract and facilitate commercial ventures in connection with the facility.

(3) A site preparation plan.

(4) Technical exchange and training programs.

(5) The participation of a redevelopment manager and of business, legal, financial, or other appropriate experts.

(6) Promotion or marketing plans.

(7) Provision for startup funds, loans, or grants, or other venture capital financing.

(8) LIMITATION ON AVAILABILITY OF FUNDS.—No amount authorized to be appropriated by subsection (b) may be available for any activity under the program established under subsection (a) unless the deadlines for the preparation of the proposed facility reuse plan for the facility under subsection (d) and for the preparation of the final plan for the facility under subsection (e) are both met.

(h) AUTHORIZATION OF APPROPRIATIONS.—
(1) IN GENERAL.—There is authorized to be appropriated to the Department of Energy, $60,000,000 to carry out this section, of which section (a), to $54,000,000, is available to each commission established under subsection (c).

(2) AVAILABILITY OF FUNDS.—The amount authorized to be appropriated under paragraph (1) shall remain available until expended.

SEC. 303. RUSSIAN TACTICAL NUCLEAR WEAPONS.

(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the President shall submit to Congress a report setting forth the following:

(1) An assessment of the number, location, condition, and security of Russian tactical nuclear weapons.

(2) An assessment of the threat that would be posed by the theft of Russian tactical nuclear weapons.

(3) A plan for developing with Russia a cooperative threat reduction and, as appropriate, dismantle Russian tactical nuclear weapons.

(b) PROGRAM.—The Secretary of Defense and the Secretary of Energy shall jointly work with Russia to establish a cooperative program, based on the report under subsection (a), to secure, dismantle, and, as appropriate, dismantle Russian tactical nuclear weapons in order to achieve reductions in the total number of Russian tactical nuclear weapons.

(c) AUTHORIZATION OF APPROPRIATIONS.—
(1) DEPARTMENT OF DEFENSE.—There is authorized to be appropriated to the Department of Defense, $25,000,000 to carry out this section.

(2) DEPARTMENT OF ENERGY.—There is authorized to be appropriated for the Department of Energy, $25,000,000 to carry out this section.

SEC. 304. ADDITIONAL ASSISTANCE TO ACCELERATE NON-PROLIFERATION PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE.—There is authorized to be appropriated to the Department of Defense $40,000,000 for fiscal year 2006 for Cooperative Threat Reduction Activities as follows:

(1) To accelerate security upgrades at warhead storage sites located in Russia or another country of the former Soviet Union, $10,000,000.

(2) To accelerate security upgrades at warhead storage sites located in countries other than the former Soviet Union, $30,000,000.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF ENERGY.—There is
authorized to be appropriated to the Department of Energy $95,000,000 for fiscal year 2006 for nonproliferation activities of the National Nuclear Security Administration as follows:

(1) To accelerate the Global Threat Reduction Initiative, $20,000,000.

(2) To accelerate security upgrades at warhead storage sites located in Russia or another country of the former Soviet Union, $15,000,000.

(3) To accelerate the closure of the plutonium producing reactor at Zheleznogorsk, Russia as part of the program to eliminate weapons grade plutonium, $23,000,000.

(4) To accelerate completion of comprehensive security upgrades at Russian storage sites for weapons-useable nuclear materials, $15,000,000.

(c) AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF STATE.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of State $25,000,000 for fiscal year 2006 for nonproliferation activities as follows:

(A) To accelerate engagement of former chemical or biological weapons scientists in Russia and the former Soviet Union through the Bio-Chem Redirect Program, $15,000,000.

(B) To carry out efforts to combat bioterrorism by transforming the former Soviet biological weapons research and production facilities to commercial enterprises through the BioIndustry Initiative, $10,000,000.

(2) AVAILABILITY OF FUNDS.—The amount authorized to be appropriated by paragraph (1) shall remain available until expended.

SEC. 305. ADDITIONAL ASSISTANCE TO THE INTERNATIONAL ATOMIC ENERGY AGENCY.

There is authorized to be appropriated to the Department of Energy $20,000,000 for fiscal year 2006 to be used to provide technical and other assistance to the International Atomic Energy Agency to support nonproliferation programs. Such amount is in addition to amounts otherwise available for such purpose.

Subtitle B—Border Protection

SEC. 311. FINDINGS.

Congress makes the following findings:

(1) More than 500,000,000 people cross the borders of the United States at legal points of entry each year, including approximately 330,000,000 people who are not citizens of the United States.

(2) The National Commission on Terrorism Attacks Upon the United States found that 15 of 24 hijackers involved in the September 11, 2001 terrorist attacks “were potentially vulnerable to interception by border authorities”.

(3) Officials with the Bureau of Customs and Border Protection and with the Bureau of Immigration and Customs Enforcement have stated that there is a shortage of agents in the Bureau's manpower estimate budget, the Bureau of Immigration and Customs Enforcement has effected a hiring freeze since March 2004, and the Bureau has not made public any plans to end this freeze.

SEC. 312. HIRING AND TRAINING OF BORDER SECURITY PERSONNEL.

(a) INSPECTORS AND AGENTS.—

(1) INCREASE IN INSPECTORS AND AGENTS.—During each of fiscal years 2005 through 2008, the Under Secretary shall:

(A) Increase the number of full-time agents and associated support staff in the Bureau of Customs and Border Protection by the equivalent of at least 200 more than the number of equivalent full-time agents in the Bureau as of the end of the preceding fiscal year; and

(B) increase the number of full-time inspectors and associated support staff in the Bureau of Customs and Border Protection by the equivalent of at least 200 more than the number of equivalent full-time inspectors in the Bureau as of the end of the preceding fiscal year.

(2) WAIVER OF FTE LIMITATION.—The Under Secretary is authorized to waive any limitation on the number of full-time equivalent personnel assigned to the Department of Homeland Security to fulfill the requirements of paragraph (1).

(b) TRAINING.—The Under Secretary shall provide appropriate training for agents, inspectors, and associated support staff on an ongoing basis to ensure such personnel are acceptable to protect the borders of the United States.

Subtitle C—Sea Port Protection

SEC. 321. FINDINGS.

Congress makes the following findings:

(1) The United States port system is a vital artery of the economy of the United States. Almost 95 percent of all foreign trade passes through one or more of the 361 ports in the United States. Such seaports handle more than 2,000,000,000 tons of domestic and international cargo each year, which has a value of more than $740,000,000. The shipment of cargo in vessels creates employment for 15,000 people in the United States.

(2) The United States Coast Guard has estimated that, given this tremendous commerce, a terrorist attack shutting down a major port in the United States would have a $60,000,000 impact on the United States economy during the first 30 days after such an attack.

(3) Although 6,000,000 cargo containers, each a possible hiding place for a bomb or another weapon, are off-loaded at ports in the United States each year, less than 1⁄20 of these containers undergo inspection. A container ship can carry as many as 3,000 containers, each one weighing up to 45,000 pounds, hundreds of which may be off-loaded at a port.

(4) The United States Coast Guard has estimated that the maritime security requirements set for ports by the Maritime Transportation Security Act of 2002 (Public Law 107-295; 116 Stat. 2041), which are critical to protecting United States ports from a nuclear terrorist attack, will cost $3,400,000,000 to implement over a 10-year period.

SEC. 322. PORT SECURITY GRANT FUNDING.

Section 70107(h) of title 46, United States Code, is amended to read as follows:

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out subsections (a) through (g) such sums as may be needed for each of the fiscal years 2006 through 2010; 

“(1) $500,000,000 for fiscal year 2006; 

“(2) $750,000,000 for fiscal year 2007; 

“(3) $1,000,000,000 for fiscal year 2008; 

“(4) $1,250,000,000 for fiscal year 2009; and 

“(5) such sums as may be needed for each fiscal year after fiscal year 2009.”.

SEC. 323. DEPLOYMENT OF RADIATION DETECTION PORTAL EQUIPMENT; INTEGRATED CARGO INSPECTION SYSTEM.

(a) ESTABLISHMENT.—The Secretary of Homeland Security shall develop a plan to integrate radiation detection portal equipment with gamma-ray inspection technology at United States seaports to facilitate the detection of nuclear weapons in maritime cargo containers. Such plan shall include methods for automatic identification of containers and vehicles for inspection in a timely manner and a data sharing network capable of transmitting gamma-ray images and cargo data among relevant ports and the National Targeting Center of the Bureau of Customs and Border Protection.

(b) REPORT.—Not later than 180 days after the date of the enactment of the Targeting Terrorists More Effectively Act of 2005, the Undersecretary for Border and Transportation Security shall submit to the appropriate congressional committees a report that contains—

“(A) a description of the plan developed under paragraph (a); 

“(B) an estimate of the costs associated with implementation of the plan; and 

“(C) an estimate of the timeframe for implementation of the plan.”.

SEC. 324. ACCELERATION OF THE MEGAPORTS INITIATIVE.

(a) DEPLOYMENT.—Not later than September 30, 2007, the Administrator of the National Nuclear Security Administration shall—

(1) develop physical standards intended to prevent terrorists from placing a weapon of mass destruction in or on a tanker vessel without detection; 

(2) develop detection equipment, and prescribe the use of such equipment, to be employed on a tanker vessel that is bound for a United States port of entry; 

(3) develop new security inspection procedures required to be carried out on a tanker vessel at a foreign port of embarkation, on
the high seas, or in United States waters between local law enforcement agencies, including police officers and firefighters, who lack the equipment and training needed to respond effectively to a terrorist attack involving weapons of mass destruction.

(3) The Federal Government has a responsibility to address the equipment, training, and other needs of State and local law enforcement agencies.

SEC. 332. RESTORATION OF JUSTICE ASSISTANCE FUNDING.

(a) FINDINGS.—Congress makes the following findings:

(1) State and local police officers, firefighters, and emergency responders play an essential role in the efforts of the United States to prevent terrorist attacks and, if an attack occurred, to address the effects of the attack.

(2) An independent task force has concluded that hundreds of local police offices and firefighting and emergency response units throughout the United States are unprepared for responding to a terrorist attack involving certain nuclear, chemical, biological, or radiological weapons.

(3) The Edward Byrne Memorial Justice Assistance Grant Program provides critical Federal support for personnel, equipment, training, and technical assistance for the homeland security responsibilities of local law enforcement offices.

(b) COPS PROGRAM.—Section 1701(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)) is amended by—

(1) inserting “and prosecutorial” after “increase police”; and

(2) inserting “to enhance law enforcement access to new technologies, and after “presence,”

(b) HIRING AND REDEPLOYMENT GRANT PROJECTS.—Section 1701(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by inserting “and probation” after “to enhance”; and

(B) in subparagraph (C)—

(i) inserting “or pay overtime” after “to secure”; and

(ii) striking “and at the end;” and

(iii) by striking “or pay overtime” and “at the end” after “and”;

(C) by adding at the end the following:

“promote higher education among single-crime State and local law enforcement officers by reimbursing them for the costs associated with seeking a college or graduate school education;” and

(2) in paragraph (2) by striking all that follows “Supporting grants,” and inserting “Grants pursuant to—

“(A) paragraph (1)(B) for overtime may not exceed 25 percent of the funds available for grants pursuant to this subsection for any fiscal year;” and

(2) in paragraph (1)(C) may exceed 20 percent of funds available for grants pursuant to this subsection in any fiscal year; and

(C) paragraph (1)(D) may not exceed 5 percent of the funds available for grants pursuant to this subsection for any fiscal year;”.

(c) ADDITIONAL GRANT PROJECTS.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (2)—

(A) by inserting “and ethics” after “solving technologies, including DNA analysis;” and

(B) by inserting “and” after “enforcement officers!”;

(2) in paragraph (7) by inserting “school officials, police, and other forensic capabilities;” after “enforcement officers!”; and

(3) by striking paragraph (8) and inserting the following:

“Grants pursuant to—

“(A) paragraph (1)(B) for overtime may not exceed 25 percent of the funds available for grants pursuant to this subsection for any fiscal year;” and

(2) paragraph (1)(C) may exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year; and

(3) paragraph (1)(D) may not exceed 5 percent of the funds available for grants pursuant to this subsection for any fiscal year;”.

(d) TECHNICAL ASSISTANCE.—Section 1701(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(f)) is amended by—

(1) in paragraph (1)—

(A) by inserting “up to 5 percent of the funds appropriated under subsection (a)” after “The Attorney General may;”;

(B) by inserting at the end following: “In addition, the Attorney General may use up to 5 percent of the funds appropriated under subsections (d), (e), and (f) for technical assistance and training to States, units of the Federal Government, and foreign governments, and to other public and private entities for those respective purposes;”;

(2) in paragraph (2) by inserting “under subsection (a)” after “The Attorney General”;

(3) in paragraph (3)—

(A) by striking “The Attorney General may” and inserting “the Attorney General shall;”;

(B) by inserting “regional community policing institutes” after “operation of”; and

(C) by inserting “representatives of police labor and management organizations, community residents, after supervisors,” after “operating”; and

(e) TECHNOLOGY AND PROSECUTION PROGRAMS.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(e)) is amended by—

(1) striking section (k);

(2) redesignating subsections (l) through (n) as subsections (g) through (k); and

(3) striking subsection (e) and inserting the following:

“(c) ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

“(1) improve police communications through the use of wireless communications, software, telecommunication, and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and within the interagency; and

“(2) develop and improve access to crime solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

“(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time crime and arrest data and other related information—including non-criminal justice data—to improve their ability to analyze, investigate, and respond to local crime and disorder problems, as well as to engage in regional crime analysis.

“(d) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

“(1) improve police communications through the use of wireless communications, software, telecommunication, and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and within the interagency; and

“(2) develop and improve access to crime solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

“(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time crime and arrest data and other related information—including non-criminal justice data—to improve their ability to analyze, investigate, and respond to local crime and disorder problems, as well as to engage in regional crime analysis.

“(e) TECHNOLOGY AND PROSECUTION PROGRAM.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(e)) is amended by—

(1) striking section (k);

(2) redesignating subsections (l) through (n) as subsections (g) through (k); and

(3) striking subsection (e) and inserting the following:

“(c) ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

“(1) improve police communications through the use of wireless communications, software, telecommunication, and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and within the interagency; and

“(2) develop and improve access to crime solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

“(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time crime and arrest data and other related information—including non-criminal justice data—to improve their ability to analyze, investigate, and respond to local crime and disorder problems, as well as to engage in regional crime analysis.

“(d) LAW ENFORCEMENT TECHNOLOGY PROGRAM.—Grants made under subsection (a) may be used to assist police departments, in employing professional, scientific, and technological advancements that will help them—

“(1) improve police communications through the use of wireless communications, software, telecommunication, and other hardware and software that allow law enforcement agencies to communicate more effectively across jurisdictional boundaries and within the interagency; and

“(2) develop and improve access to crime solving technologies, including DNA analysis, photo enhancement, voice recognition, and other forensic capabilities; and

“(3) promote comprehensive crime analysis by utilizing new techniques and technologies, such as crime mapping, that allow law enforcement agencies to use real-time crime and arrest data and other related information—including non-criminal justice data—to improve their ability to analyze, investigate, and respond to local crime and disorder problems, as well as to engage in regional crime analysis.

(4) carry out research and development of semiconductors to detect any nuclear device that is placed in or on a tanker vessel; and

(5) provide assistance to a foreign country to assist such country in carrying out any proposals of the National Security Initiative.
“(f) COMMUNITY-BASED PROSECUTION PROGRAM.—Grants made under subsection (a) may be used to assist State, local or tribal prosecutors’ offices in the implementation of community-based prosecution programs that build on local community policing efforts. Funds made available under this subsection may be used to—

(1) hire additional prosecutors who will be assigned to community prosecution programs, including programs that assign prosecutors to handle cases from specific geographic areas, to address specific violent crime and other local crime problems (including intensive illegal gang, gun and drug enforcement projects and quality of life initiatives), and to localize violent and other crime problems based on needs identified by local law enforcement agencies, community organizations, and others;

(2) redevelop existing community prosecution programs as described in paragraph (1) of this section by hiring victim and witness coordinators, para-legals, community outreach, and other such personnel; and

(3) establish programs to assist local prosecutors’ offices in the implementation of programs identified that respond to priority crime problems in a community with specifically tailored solutions. At least 75 percent of the funds made available under this section shall be reserved for grants under paragraphs (1) and (2) and of those amounts no more than 10 percent may be used for grants under paragraph (2) and at least 25 percent of the funds shall be reserved for grants under paragraphs (1) and (2) to units of local government with a population of less than 50,000.”.

(f) Retention Grants.—Section 1703 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–2) is amended by inserting at the end the following:

“(d) RETENTION GRANTS.—The Attorney General may use no more than 50 percent of the funds under subsection (a) to award grants targeted specifically for retention of police officers to grantees in good standing, with preference to those that demonstrate financial hardship or severe budget constraint that may result in the termination of employment for police officers funded under subsection (b)(1).”.

(e) Indian tribes.—

(1) CAREER LAW ENFORCEMENT OFFICER.—Section 1709(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796cc) is amended by inserting “(I) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gang and drug activities, firearms and explosives-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;” before the period at the end of the section.

(2) SCHOOL RESOURCE OFFICER.—Section 1709(e) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796cc–4) is amended—

(A) by striking subparagraph (A) and inserting the following:

“(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gang and drug activities, firearms and explosives-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;”;

(B) by striking subparagraph (B) and inserting the following:

“(B) to train students in conflict resolution, teamwork, leadership, and crime prevention, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;”;

(C) by adding at the end the following:

“(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a school firearm examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

(J) to document the full description of all explosives or explosive devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of expulsions per year for bringing a weapon, firearm, or explosive to school.”.


(1) by amending subparagraph (A) to read as follows:

“(A) There are authorized to be appropriated to carry out part Q, to remain available until expended:

(i) $1,150,000,000 for fiscal year 2006;

(ii) $1,150,000,000 for fiscal year 2007;

(iii) $1,150,000,000 for fiscal year 2008;

(iv) $1,150,000,000 for fiscal year 2009;

(v) $1,150,000,000 for fiscal year 2010; and

(vi) $1,150,000,000 for fiscal year 2011.”;

and

(2) in subparagraph (B)—

(A) by striking “3 percent” and inserting “5 percent”;

(B) by striking “1701(f)” and inserting “1701(1)”;

(C) by striking the second sentence and inserting “Of the remaining funds, if there is a demand for 50 percent of appropriated hiring funds, as determined by eligible hiring applicants among the agencies having jurisdiction over areas with populations exceeding 150,000, no less than 50 percent shall be awarded pursuant to a competition conducted pursuant to specific criteria.”;

(D) by striking the second sentence and inserting “If there is a demand for 50 percent of appropriated hiring funds, as determined by eligible hiring applicants among the agencies having jurisdiction over areas with populations exceeding 150,000, no less than 50 percent shall be awarded pursuant to a competition conducted pursuant to specific criteria.”;

(E) by striking “$600,000,000” and inserting “$350,000,000”;

(F) by inserting “1701(b) and (c), $535,000,000 to grants for the purposes specified in section 1701(c), and $200,000,000 to grants for the purposes specified in section 1701(f).”;

(G) by striking the following:

“(I) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gang and drug activities, firearms and explosives-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school.”;

(SEC. 334. FIRST RESPONDERS ANTI-TERORISM PARTNERSHIP. (a) DEFINITIONS.—In this section:

(1) INDIAN TRIBE.—The term “Indian tribe” has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act.

(2) LAW ENFORCEMENT OFFICER.—The term “law enforcement officer” means any officer, agent, or employee of a State, unit of local government, public or private college or university, or Indian tribe authorized by law or by a government agency to engage in or support prevention, investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders.

(b) FIRST RESPONDERS PARTNERSHIP GRANT PROGRAM FOR PUBLIC SAFETY OFFICERS.—

(1) IN GENERAL.—The Secretary is authorized to make grants to States, units of local government, and Indian tribes to support public safety officers in their efforts to protect homeland security and prevent and respond to acts of terrorism.

(2) USE OF FUNDS.—Grants awarded under this section shall be—

(A) distributed directly to the State, unit of local government, or Indian tribe; and

(B) used to fund overtime expenses, equipment, training, and facilities to support public safety officers in their efforts to protect homeland security and prevent and respond to acts of terrorism.

(c) ALLOCATION AND DISTRIBUTION OF FUNDS.—

(A) SET-ASIDE FOR INDIAN TRIBES.—

(I) IN GENERAL.—The Secretary shall reserve 1 percent of the amount appropriated for grants pursuant to this section to be used for grants to Indian tribes.

(II) SELECTION OF INDIAN TRIBES.—

(I) IN GENERAL.—The Secretary shall award grants under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria.

(II) RULEMAKING.—The criteria under subsection (I) shall be contained in a regulation promulgated by the Secretary after notice and public comment.

(B) SET-ASIDE FOR RURAL STATES.—

(I) IN GENERAL.—The Secretary shall reserve 5 percent of the amount appropriated for grants pursuant to this section to be used for grants to rural States.

(II) SELECTION OF RURAL STATES.—

(I) IN GENERAL.—The Secretary shall award grants under this paragraph to rural States (as defined in section 1501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(b))) on the basis of a competition conducted pursuant to specific criteria.

(II) RULEMAKING.—The criteria under clause (I) shall be contained in a regulation promulgated by the Secretary after notice and public comment.

(C) MINIMUM AMOUNT.—The Secretary shall allocate, from the total amount appropriated for grants to States under this subsection—

(i) not less than 0.75 percent for each State; and

(ii) not less than 0.25 percent for American Samoa, Guam, the Northern Mariana Islands, and the United States Virgin Islands, respectively.

(D) ALLOCATION TO METROPOLITAN CITIES AND URBAN COUNTIES.—The balance of the total amount appropriated for grants to States under this subsection after allocation in paragraph (C) to Indian tribes, rural States, and the minimum amount to each State pursuant to subparagraphs (A) through
(C), shall be allocated by the Secretary to metropolitan cities and urban counties pursuant to subparagraphs (E) and (F).

(E) COMPUTATION OF AMOUNT ALLOCATED TO METROPOLITAN CITIES.

(i) COMPUTATION RATIOS.—The Secretary shall determine the amount to be allocated to each metropolitan city, which shall bear the same ratio to the allocation for all metropolitan cities as the weighted average of—

(I) the population of the metropolitan city divided by the population of all metropolitan cities;

(II) the potential chemical security risk of the metropolitan city divided by the potential chemical security risk of all metropolitan cities;

(III) the proximity of the metropolitan city to the nearest operating nuclear power plant compared to the proximity of all metropolitan cities to the nearest operating nuclear power plant to each such city;

(IV) the proximity of the metropolitan city to the nearest United States land or water port compared with the proximity of all metropolitan cities to the nearest United States land or water port to each such city; and

(V) the proximity of the metropolitan city to the nearest international border compared with the proximity of all metropolitan cities to the nearest international border to each such city.

(ii) CLARIFICATION OF COMPUTATION RATIOS.—

(I) RELATIVE WEIGHT OF FACTOR.—In determining the average of the ratios under clause (i), the ratio involving population shall constitute 50 percent of the formula in calculating the allocation and the remaining factors shall be equally weighted.

(II) POTENTIAL CHEMICAL SECURITY RISK.—If a metropolitan city is within the vulnerable zone of a worst-case chemical release (as specified in the most recent risk management plans filed with the Environmental Protection Agency, or another instrument developed by the Environmental Protection Agency or the Homeland Security Department of a metropolitan city located in the same form as the “DMAT” for the metropolitan city divided by the total number of metropolitan cities that are within such a zone.

(III) PROXIMITY AS IT PERTAINS TO NUCLEAR SECURITY.—If a metropolitan city is located within 50 miles of a nuclear power plant (as identified by the Nuclear Regulatory Commission), the ratio under clause (i)(III) shall be 1 divided by the total number of metropolitan cities, not to exceed 100, which are located within 50 miles of an operating nuclear power plant.

(iv) COMPUTATION OF AMOUNT ALLOCATED TO URBAN COUNTIES.

(i) COMPUTATION RATIOS.—The Secretary shall determine the amount to be allocated to each urban county, which shall bear the same ratio to the allocation for all urban counties as the weighted average of—

(I) the population of the urban county divided by the population of all urban counties;

(II) the potential chemical security risk of the urban county divided by the potential chemical security risk of all urban counties;

(III) the proximity of the urban county to the nearest operating nuclear power plant compared to the proximity of all urban counties to the nearest operating nuclear power plant to each such county;

(V) the proximity of the urban county to the nearest United States land or water port compared with the proximity of all urban counties to the nearest United States land or water port to each such county; and

(VI) the proximity of the urban county to the nearest international border compared with the proximity of all urban counties to the nearest international border to each such county.

(ii) CLARIFICATION OF COMPUTATION RATIOS.—

(I) RELATIVE WEIGHT OF FACTOR.—In determining the average of the ratios under clause (i), the ratio involving population shall constitute 50 percent of the formula in calculating the allocation and the remaining factors shall be equally weighted.

(II) POTENTIAL CHEMICAL SECURITY RISK.—If an urban county is within the vulnerable zone of a worst-case chemical release (as specified in the most recent risk management plans filed with the Environmental Protection Agency, or another instrument developed by the Environmental Protection Agency or the Homeland Security Department of the urban county, all of the area of any unit of local government shall be included, which is part of, but is not located entirely within the boundaries of, such urban county.

(III) PROXIMITY AS IT PERTAINS TO NUCLEAR SECURITY.—If an urban county is located within 50 miles of an operating nuclear power plant (as identified by the Nuclear Regulatory Commission), the ratio under clause (i)(III) shall be 1 divided by the total number of urban counties, not to exceed 100, which are located within 50 miles of an operating nuclear power plant.

(IV) PROXIMITY AS IT PERTAINS TO PORT SECURITY.—If an urban county is located within 50 miles of an operating nuclear power plant (as identified by the Nuclear Regulatory Commission), the ratio under clause (i)(IV) shall be 1 divided by the total number of urban counties within the urban county.

(V) PROXIMITY TO INTERNATIONAL BORDER.—If a metropolitan city or an urban county is located within 50 miles of an international border, the ratio under clause (i)(V) shall be 1 divided by the total number of urban counties that are located within 50 miles of a United States land or water port.

(VI) PROXIMITY TO INTERNATIONAL BORDER.—

If an urban county is located within 50 miles of a United States land or water port, the ratio under clause (i)(VI) shall be 1 divided by the total number of urban counties that are located within 50 miles of an international border.

(VII) PROXIMITY TO DISASTER MEDICAL ASSISTANCE TEAM.—If an urban county is located within 50 miles of a DMAT, as organized by the National Disaster Medical System, the ratio under clause (i)(VII) shall be 1 divided by the total number of urban counties that are located within 50 miles of a DMAT.

(F) COMPUTATION OF AMOUNT ALLOCATED TO URBAN COUNTIES.

(i) COMPUTATION RATIOS.—The Secretary shall determine the amount to be allocated to each urban county, which shall bear the same ratio to the allocation for all urban counties as the weighted average of—

(I) the population of the urban county divided by the population of all urban counties;

(II) the potential chemical security risk of the urban county divided by the potential chemical security risk of all urban counties;

(III) the proximity of the urban county to the nearest operating nuclear power plant compared to the proximity of all urban counties to the nearest operating nuclear power plant to each such county;

(IV) the proximity of the urban county to the nearest United States land or water port compared with the proximity of all urban counties to the nearest United States land or water port to each such county; and

(V) the proximity of the urban county to the nearest international border compared with the proximity of all urban counties to the nearest international border to each such county.

(ii) CLARIFICATION OF COMPUTATION RATIOS.—

(I) RELATIVE WEIGHT OF FACTOR.—In determining the average of the ratios under clause (i), the ratio involving population shall constitute 50 percent of the formula in calculating the allocation and the remaining factors shall be equally weighted.

(II) POTENTIAL CHEMICAL SECURITY RISK.—If an urban county is within the vulnerable zone of a worst-case chemical release (as specified in the most recent risk management plans filed with the Environmental Protection Agency, or another instrument developed by the Environmental Protection Agency or the Homeland Security Department of an urban county, all of the area of any unit of local government shall be included, which is part of, but is not located entirely within the boundaries of, such urban county.

(III) PROXIMITY AS IT PERTAINS TO NUCLEAR SECURITY.—If an urban county is located within 50 miles of an operating nuclear power plant (as identified by the Nuclear Regulatory Commission), the ratio under clause (i)(III) shall be 1 divided by the total number of urban counties, not to exceed 100, which are located within 50 miles of an operating nuclear power plant.

(IV) PROXIMITY AS IT PERTAINS TO PORT SECURITY.—If an urban county is located within 50 miles of an operating nuclear power plant (as identified by the Nuclear Regulatory Commission), the ratio under clause (i)(IV) shall be 1 divided by the total number of urban counties within the urban county.

(V) PROXIMITY TO INTERNATIONAL BORDER.—If an urban county is located within 50 miles of a United States land or water port, the ratio under clause (i)(V) shall be 1 divided by the total number of urban counties that are located within 50 miles of a United States land or water port.

(VI) PROXIMITY TO INTERNATIONAL BORDER.—

If an urban county is located within 50 miles of a United States land or water port, the ratio under clause (i)(VI) shall be 1 divided by the total number of urban counties that are located within 50 miles of an international border.

(VII) PROXIMITY TO DISASTER MEDICAL ASSISTANCE TEAM.—If an urban county is located within 50 miles of a DMAT, as organized by the National Disaster Medical System, the ratio under clause (i)(VII) shall be 1 divided by the total number of urban counties that are located within 50 miles of a DMAT.

(G) EXCLUSIONS.—

(I) IN GENERAL.—In computing amounts or expenses under subparagraph (F) with respect to any urban county, units of general local government located in the county shall be excluded if the populations of such units are not counted to determine the eligibility of the urban county to receive a grant under this paragraph.

(ii) INDEPENDENT CITIES.—

(I)(ee) is not included as a part of any other unit of general local government for purposes of this section.

(II) LIMITATION.—Any independent city that is included in the computation under subclause (I) shall be eligible to receive assistance under this paragraph for the fiscal year for which such computation is used to allocate such assistance.

(H) INCLUSION.—

(I) LOCAL GOVERNMENT STRADDLING COUNTY LINE.—In computing amounts or expenses under subparagraph (F) with respect to any urban county, units of general local government located in or outside the boundaries of such county that are located within the county shall be included in computing the amount for such urban county under this subsection; and

(II) LIMITATION.—In computing amounts or expenses under subparagraph (F) with respect to any urban county, units of general local government located in or outside the boundaries of such county that are located within the county shall be included in computing the amount for such urban county under this subsection; and

(III) LIMITATION.—Clause (i) shall apply only to a consolidation that—
(I) included all metropolitan cities that received grants under this section for the fiscal year preceding such consolidation and that were located within the urban county;

(II) more than one urban county that received a grant under this section for the fiscal year preceding such consolidation; and

(III) took place on or after January 1, 2005.

(2) The population or the growth rate of all metropolitan cities defined in this section shall be based on the population of metropolitan cities other than consolidated governments for which a determination is determined under this section and that were metropolitan cities before their incorporation into consolidated governments.

(b) Aggregate amount per grantee.—

(A) In general.—A State, unit of local government, or Indian tribe may not receive more than 5 percent of the total amount appropriated for grants under this section.

(B) Aggregate amount per state.—A State, together with the grantees within the State, may not receive more than 20 percent of the total amount appropriated for grants under this section.

(c) Matching funds.—

(1) In general.—The portion of the costs of a project, activity, or program that is to be provided by a grantee under this section shall be increased by the amount of any matching funds required under this subsection.

(2) Regulations.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish regulations to implement this subsection (including the information that must be included and the requirements that the Secretary, units of local government, and Indian tribes meet) in submitting the applications required under this subsection.

(d) Authorization of appropriations.—

There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 402. PROHIBITION ON WAR PROFITEERING.

(a) Findings.—Congress makes the following findings:

(1) War profiteering, the overcharging of taxpayers for any good or service with the specific intent to excessively profit from a conflict or reconstruction, and the defrauding of taxpayers in the United States, but also threatens the safety of United States troops in harms way by hindering reconstruction progress, damaging the credibility of the United States, and wasting resources that could be used for troop protection.

(2) Laws prohibiting fraud protect against waste of tax dollars within the United States, but no current fraud statute expressly prohibits waste of tax dollars resulting from war profiteering during conflicts in foreign countries.

(b) Prohibition.—

(1) War profiteering. —

(A) In general.—Whoever, in any matter involving any violation of this section, and for the purpose of obtaining or obtaining any benefit of any kind or性质, knowingly makes any materially false, fictitious, or fraudulent statement or entry; or

(B) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(A) makes any materially false, fictitious, or fraudulent statement or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; or

(D) materially overvalues any good or service with the specific intent to excessively profit from the war, military action, or relief or reconstruction activities; shall be fined under paragraph (2), imprisoned not more than 20 years, or both.

SECTION 403. PROHIBITION ON MILITARY ACTION, RECONSTRUCTION, AND RELIEF.

(a) Definitions.—

For purposes of this section—

(1) War profiteering; and

(2) War profiteering and fraud relating to military action, relief, and reconstruction efforts.

(b) Prohibition.—Whoever, in any matter involving any violation of this section, and for the purpose of obtaining or obtaining any benefit of any kind or nature, knowingly makes any materially false, fictitious, or fraudulent statement or entry; or

(c) Civil forfeiture.—The Comptroller General shall submit to Congress an annual report for fiscal year 2005 and each fiscal year thereafter, the number of criminal and civil cases and the amount of money obtained from the United States under this section.

(d) Money laundering.—No person shall be subjected to civil or criminal liability as a result of the seizure, liquidation, or enforcement of any criminal conviction under this section.

(e) Venue.—This section shall not limit or repeal any additional provisions of law.

(f) Effective date of amendments.—The amendments made by this section shall be effective during the 7-year period beginning on the date of enactment of this Act.

S. 13. A bill to amend titles 10 and 38, United States Code, to expand and enhance health care, mental health, transition, and disability benefits for veterans, and for other purposes; to the Committee on Veterans’ Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce a bill that would make sweeping changes to the way the Department of Veterans Affairs (VA) delivers health care and benefits to our nation’s veterans. S. 13 would, among other things, guarantee full funding for VA health care, provide for full concurrent receipt, enhance mental health care services, and ease the transition from military service to civilian life.

This bill would mean that the 115,000 veterans who choose to make Hawaii their home would be assured the services they have earned. The nearly 18,000 veterans who avail themselves of VA health care in Honolulu, Hawaii,

"(A) $1,000,000; or

"(B) if person derives profits or other proceeds from the offense, not more than twice the gross profits or other proceeds.

"(b) Extraterritorial jurisdiction.—There is extraterritorial jurisdiction over an offense under this section.

"(c) Venue.—A prosecution for an offense under this section may be brought—

(1) as authorized by chapter 211 of this title; or

"(2) in any district where any act in furtherance of the offense took place; or

"(3) in any district where any party to the contract or provider of goods or services is located.

"(2) Table of sections.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:
Kauai, and Maui would not have to worry if resources for doctors and nurses will materialize next year.

And because so many of our reservists and Guardsmen are being deployed for the current wars in Iraq and Afghanistan, this bill will help ensure they get the care they need upon their return.

Every year the President sends forward his budget proposal to Congress, and every year we go through the same battles to get VA health care the money adequately serves its veteran patients. The time has come to approach this process more rationally. This legislation would ensure full funding for VA health care by simply changing the way funds are allocated. To be perfectly clear, this bill merely shifts money already being allocated over to a more reliable mechanism.

The American Legion, the Disabled American Veterans, and the Veterans of Foreign Wars support this approach to fully fund the veterans health care system.

These three organizations—representing more than 7 million military veterans—rightly believe that veterans have earned the right to VA medical care through their “extraordinary sacrifices and service to this Nation.”

We have seen huge numbers of veterans seeking VA care for the first time. I, for one, believe this is a good thing. Others rationalize that as we are at war, we must cut back on VA care. I simply do not understand this logic. We are at war, and therefore we must do everything we can to show our military that VA health care will be there for all veterans who served. To accomplish this goal, we must change the way VA health care is funded.

Although we have continued to make progress on eliminating the long-standing injustice that has affected our disabled retired veterans’ retirement pay, we still have work to do.

S. 13 will correct this unfairness by allowing all disabled military retirees to collect both their full military retired and VA disability pay concurrently.

Most military retirees who have a service-connected disability are not permitted to collect both their retirement and disability benefits concurrently. Military retired pay is the promised reward for 20 or more years of uniformed service and is based on length of service. VA disability compensation is unrelated to length of service and is intended to compensate a veteran for a service-connected loss of function.

In order to continue to recruit and retain quality soldiers, sailors, airmen, and marines, we must pay attention not only to current, but also to the future. George Washington said:

The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the Veterans of earlier wars were treated and appreciated by their nation.

Our disabled military retirees deserve to receive the retirement pay that they earned and be compensated for their service-connected disabilities. Our young people will wear the uniforms of our Armed Forces only if they believe that their service is appreciated and compensated accordingly.

Along those lines, S. 13 also seeks to ensure that veterans and returning service members can receive the mental health care they might need as a result of their service. The legislation requires that at least one psychiatrist and treatment team at each medical center that does not currently have one. This legislation would also mandate that VA carry out a community outreach program to let Operation Iraqi Freedom and Operation Enduring Freedom veterans know about the services available to them at VA.

Why is good VA mental health care so important?

Because so often battle wounds do not manifest in physical illness, but in quiet and equally debilitating mental illness. These wounds are revealed as post-traumatic stress disorder with effects that linger and symptoms that can be brought on years after combat. While hypertension and heart disease hypothyroidism and post-traumatic stress disorder continue to affect vast numbers of veterans, mental illness is not far behind. It might surprise some of my colleagues to know that cancer and depression affect roughly the same number of veterans.

Is it possible to treat all veterans who need care? This remains very much an open question.

This legislation also seeks to improve access to needed prescription drugs. Many veterans have expressed their desire to bring prescriptions from their Medicare doctors to VA pharmacies to get them filled. Current VA policy requires that nearly all veterans see a VA doctor before such prescriptions are issued. This does not make sense.

The Department’s inspector general testified that VA could save savings of $1 billion a year if veterans were allowed to bring their outside prescriptions, because it would obviate the need for VA to re-diagnose patients and then re-issue prescriptions that have already been written. S. 13 would allow these veterans to get their prescriptions filled by VA at prices that are far better than in the private sector.

This legislation would also help veterans with their education. S. 13 would exclude MGIB benefits from computation as income when calculating campus based aid, such as Perkins loans. This draws the distinction between a benefit that has been earned, and paid for, by the veterans, and other types of income. This allows the individual applying for financial aid to subtract $1,200 from the expected family contribution for 1 year. This $1,200 represents the money that the individual paid to participate in the MGIB program.

S. 13 also offers an opportunity for enrollment in the MGIB education program for servicemembers who participated in or were eligible to participate in the post-Vietnam era educational assistance program, known as VEAP. This bill would create a 1-year window and requires the individual to pay $2,700, which was the VEAP contribution.

Last year, Congress extended the period of eligibility for education benefits for survivors of servicemembers who were killed during active duty. We would like to further extend this eligibility to those veterans and other dependents. The 10-year period of eligibility would not begin to toll until they began to use the benefit, rather than when they became eligible for the benefit.

Overall, this is a bill to spur dialogue started on the issues that are truly important to our veterans.

We all need to work harder towards the goal of seeing that the promises made to the men and women who are serving today and those that their sacrifices were not in vain.

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. 13
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—HEALTH CARE MATTERS

SEC. 100. FINDINGS.

Congress makes the following findings:

(1) The three largest veterans advocacy groups, the Disabled American Veterans, the American Legion, and the Veterans of Foreign Wars, have called upon Congress to change veterans funding to a mandatory process, stating, “We believe it is time to guarantee health care funding for all veterans. We believe health care rationing must end. We believe it is time the promise is kept.”

(2) The May 2003 report of The President’s Task Force To Improve Health Care Delivery For Our Nation’s Veterans found that “there is a significant mismatch in VA between demand and available funding—an imbalance that . . . if unresolved, will delay veterans’ access to care and could threaten the quality of VA health care.”

(3) Under the current funding process, the VA has experienced billion-dollar shortfalls each year for the past decade, resulting in waiting lists several months long for appointments with physicians, a substantial disability claims backlog, and policies designed to prevent veterans from obtaining the health care they were promised.

Subtitle A—Funding Matters

SEC. 101. FUNDING TO ADDRESS CHANGES IN POPULATION AND INFLATION.

(a) In GENERAL.—Chapter 17 of title 38, United States Code, is amended by inserting after section 1706 the following new section:

“§ 1706A. Management of health care: funding to address changes in population and inflation.

“(a) By the enactment of this section, Congress and the President intend to ensure access to health care for all veterans. Upon the
enactment of this section, funding for the programs, functions, and activities of the Veterans Health Administration specified in subsection (d) to accomplish this objective shall be set forth in a combination of discretionary and mandatory funds. The discretionary amount should be equal to the fiscal year preceding such fiscal year. The mandatory amount should be adjusted according to the formula specified in subsection (c). While this section does not purport to control the outcome of the annual appropriations process, it is the responsibility of Congress and the President in sustaining discretionary funding for such programs, functions, and activities in future fiscal years at the levels of discretionary funding for such programs, functions, and activities for fiscal year 2005. The success of that arrangement, as well as of the funding formula, are to be reviewed after two years.

(b) On the first day of each fiscal year, the Secretary of the Treasury shall make available to the Secretary of Veterans Affairs the amount determined under subsection (c) with respect to that fiscal year. Each such amount is available, without fiscal year limitation, for the programs, functions, and activities of the Veterans Health Administration specified in subsection (d). The Secretary shall adjust, on an annual basis, amounts appropriated in the Treasury not otherwise appropriated, amounts necessary to implement this section.

(c) The amount applicable to fiscal year 2006 under this subsection is the amount equal to—

(i) 130 percent of the amount obligated by the Department during fiscal year 2005 for the purposes specified in subsection (d); minus—

(ii) the amount appropriated for those purposes for fiscal year 2005.

(2) The amount applicable to any fiscal year after fiscal year 2006 under this subsection is the amount equal to the product of the following, minus the amount appropriated for the purposes specified for subsection (d) for fiscal year 2005:

(A) The sum of—

(i) the number of veterans enrolled in the Department health care system under section 1705A of title 38, United States Code (as so added), on the date of January 1, 2006; and (ii) the number of persons eligible for health care under chapter 17 of title 38 who are not veterans (or the Secretary’s designee) and are not provided hospital care or medical services under such chapter at any time during the fiscal year preceding such fiscal year.

(B) The per capita baseline amount, as increased from time to time pursuant to paragraph (3)(B).

(3) For purposes of paragraph (2)(B), the term ‘per capita baseline amount’ means the amount equal to—

(i) the amount obligated by the Department during fiscal year 2005 for the purposes specified in subsection (d); or

(ii) the number of veterans enrolled in the Department health care system under section 1706 of this title as of September 30, 2005.

(B) With respect to any fiscal year, the Secretary shall provide a percentage increase in the per capita baseline amount equal to the percentage by which—

(i) the Consumer Price Index (all Urban Consumers: City Average) as published by the Bureau of Labor Statistics of the Department of Labor for the 12-month period preceding the beginning of the fiscal year for which the increase is made; exceeds

(1) such Consumer Price Index for the 12-month period preceding the 12-month period described in clause (i). (2) An adjustment for the per capita baseline amount available pursuant to subsection (b) shall be all programs, functions, and activities of the Veterans Health Administration.

(2) Amounts pursuant to subsection (b) are not available for—

(A) construction, acquisition, or alteration of medical facilities as provided in subsection (d); or

(B) grants under subchapter III of chapter 81 of this title.

(e) Nothing in this section shall be construed to prevent or limit the authority of Congress to reauthorize provisions relating to veterans health care.

SEC. 106. COMPTROLLER GENERAL REPORT.

(a) REQUIREMENT FOR REPORT. Not later than January 31, 2006, the Comptroller General of the United States shall submit to Congress a report on the extent to which section 1706A of title 38, United States Code (as added by section 101 of this Act), has achieved the objective set forth in subsection (c) of such section 1706A during fiscal years 2006 and 2007.

(b) Contents of report under subsection (a) shall set forth the following:

(1) The amount appropriated for fiscal year 2005 for the programs, functions, and activities of the Veterans Health Administration specified in subsection (c) of such section 1706A of title 38, United States Code (as so added).

(2) The amount appropriated by annual appropriations Acts for each of fiscal years 2006 and 2007 for such programs, functions, and activities.

(3) The amount provided by section 1706A of title 38, United States Code (as so added), for each of fiscal years 2006 and 2007 for such programs, functions, and activities.

(4) An assessment whether the amount described in paragraph (2) of this subsection was increased from time to time pursuant to paragraph (1) of this subsection.

(5) An assessment whether the amount described in paragraph (2) of this subsection was increased from time to time pursuant to paragraph (3) of this subsection.

(6) Such recommendations as the Comptroller General considers appropriate regarding modifications of the formula under subsection (c) of such section 1706A of title 38, United States Code (as so added), or any other modifications of law, to better ensure adequate funding of such programs, functions, and activities.
or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(3) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution described in subsection (b) and a single quorum call at the conclusion of the debate, if requested by the simple majority of the House of Representatives in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) APPEALS FROM DECISIONS OF THE CHAIR.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives shall be decided in the manner described in subsection (b) shall be decided without debate.

(5) CONSIDERATION BY OTHER HOUSE.—If, before the passage by one House of a joint resolution of that House described in subsection (b), that House receives a message from the other House that it is inconsistent with such rules; and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(6) RULES OF SENATE AND HOUSE.—This section is inapplicable to the Senate.
“(4) The Secretary may from time to time adjust any amount determined by the Secretary under paragraph (1), as previously adjusted under this paragraph, in order to meet the purpose specified in paragraph (2); and

(5) in subsection (d), as so redesignated—

(i) by striking “subsection (a)” and inserting “subsections (a) and (b)”;

(ii) by striking subsection (b) and inserting “subsection (c)”;

(2) DEPOSIT OF COLLECTIONS IN MEDICAL CARE COLLECTIONS FUND.—Paragraph (4) of section 1722A(h) of title 38 of this title is amended to read as follows:

“(4) Subsection (a) or (b) of section 1722A of this title.

(3) CLINICAL AMENDMENTS.—(1) The heading for section 1712 of such title is amended by striking “for certain disabled veterans”.

(2) The tables of sections at the beginning of chapter 17 of such title are amended by striking the item relating to section 1712 by striking “for certain disabled veterans”.

TITLe I—CONCURRENT RECEIPT OF RETIRED PAY AND SERVICE-CONNECTED DISABILITY COMPENSATION

SEC. 201. SHORT TITLE.

This title may be cited as the “Retired Pay Restoration Act of 2005”.

SEC. 202. FINDINGS.

Congress makes the following findings:

(1) The United States Government has an essential obligation to provide support and care for men and women who have completed honorable military service in defense of the Nation. In no instance is this obligation more critical than for veterans who were injured or disabled during their military service.

(2) Disability compensation and military retired pay are benefits earned for two distinct reasons. Disability compensation is provided for disabilities resulting from their military service to the Nation as an expression of the Nation’s gratitude and as recompense for their sacrifice. Military retired pay is earned by members of the Armed Forces for the devotion of 20 or more years of their lives to the military service of the Nation.

(3) Until 2002, Federal law prohibited disabled veterans from concurrently receiving both disability compensation and retirement pay. The prohibition against concurrent receipt of title 38, chapter 61, of the United States Code relating to sections 1413a and 1414 and insert—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) by redesigning subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (c) the following new subsection:

“(d) RETROACTIVE PHYSICAL.—(1) The Secretary concerned shall require a member eligible for benefits as a veteran under section 1142 of title 10, United States Code, to undergo a physical examination before separation.

(2) The physical examination conducted for a member under this subsection shall be

“(B) The purpose of a physical examination conducted for a member under this subsection shall be—

“(i) to identify any illness, injury, or medical conditions that make the member eligible for benefits as a veteran under the laws administered by the Secretary of Veterans Affairs; and

“(C) The Secretary of Defense shall prescribe in regulations the requirements for physical examinations conducted under this subsection.

“(4) The results of the physical examination conducted for a member under this subsection shall be included on the Form DD214 of the member (or any successor form).”

(5) The Secretary concerned shall transmit in electronic form to the Secretary of Veterans Affairs the results of each physical examination conducted by such Secretary under this subsection.

SEC. 203. ENHANCEMENT OF PRESEPARATION PHYSICAL EXAMINATION REQUIREMENTS.

Section 116 of title 10, United States Code, is amended—

“(1) in subsection (a), by striking paragraphs (4), and

(2) by redesigning paragraphs (3) through (10) as paragraphs (4) through (11), respectively; and

“(4) The Secretary of Defense shall prescribe in regulations the requirements for physical examinations conducted under this subsection.

“(C) The Secretary of Defense shall prescribe in regulations the requirements for physical examinations conducted under this subsection.

“(D) The physical examination of a member under this subsection shall be conducted before the member receives preseparation counseling under section 1142 of this title.

“(A) The physical examinations conducted under this subsection shall be comprehensive and, to the maximum extent practicable, uniform throughout the armed forces.

“(B) The purpose of a physical examination conducted for a member under this subsection shall be—

“(i) to determine the immediate health care needs, if any, of the member as of separation and the ongoing health care needs, if any, of the member after separation; and

“(ii) to identify any illness, injury, or medical conditions that make the member eligible for benefits as a veteran under the laws administered by the Secretary of Veterans Affairs.

“(C) The Secretary of Defense shall prescribe in regulations the requirements for physical examinations conducted under this subsection.

“(4) The results of the physical examination of a member under this subsection shall be included on the Form DD214 of the member (or any successor form).”

“(5) The Secretary concerned shall transmit in electronic form to the Secretary of Veterans Affairs the results of each physical examination conducted by such Secretary under this subsection.

SEC. 204. EFFECTIVE DATE; PROHIBITION ON CONCURRENT RECEIPT OF BENEFITS.

(a) IN GENERAL.—The amendments made by section 202 shall take effect on

“(1) in subsection (a), by striking paragraph (4); and

“(2) by redesigning subsections (d) and (e) as subsections (e) and (f), respectively; and

“(3) by inserting after subsection (c) the following new subsection:

“(d) DEFINITIONS.—In this section—

“(1) The term ‘retired pay’ includes re- tainer pay, emergency officers’ retirement pay, and naval pay.

“(2) The term ‘veterans’ disability compensation’ has the meaning given the term ‘compensation’ in section 101(13) of title 38.

“(3) The physical examination of a member under this subsection shall be—

“(C) The Secretary of Defense shall pre-
(2) by striking paragraph (2) and inserting the following new paragraphs:

"(2) A description (to be developed with the assistance of the Secretary of Veterans Affairs) of the compensation and benefits to which the member may be entitled under the laws administered by the Secretary of Veterans Affairs, including compensation and vocational rehabilitation benefits in the case of a member being medically separated or being retired under chapter 61 of this title, which shall be taken into account the preseparation examination of the member conducted under section 1145(d) of this title.

"(3) In the case of a member who, as determined pursuant to the preseparation examination conducted under section 1145(d) of this title, may be entitled to compensation or pensions benefits under the laws administered by the Secretary of Veterans Affairs, a referral (to be provided with the assistance of the Secretary of Veterans Affairs) for a compensation and preseparation examination by the Secretary of Veterans Affairs.".

SEC. 306. EPIDEMIOLOGICAL STUDIES.

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly develop protocols to facilitate the sharing of information developed during the five-year period beginning on October 1, 2005, jointly carry out such epidemiological studies relating to veterans' health conditions that develop as a result of occupational exposure during military service as such Secretaries consider appropriate.

(b) FUNDING.—(1) DEPARTMENT OF DEFENSE.—Of the amount authorized to be appropriated for fiscal year 2006 for the Department of Defense for the Defense Health Program, $2,500,000 shall be available for the epidemiological studies authorized by subsection (a).

(2) DEPARTMENT OF VETERANS AFFAIRS.—Of the amount authorized for fiscal year 2006 for the Department of Veterans Affairs for Medical Care, $2,500,000 shall be available for the epidemiological studies authorized by subsection (a).

(3) AVAILABILITY.—Amounts available under this subsection shall be available without fiscal year limitation.

SEC. 307. INFORMATION SHARING.

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly develop protocols to facilitate the sharing of information developed during the five-year period beginning on October 1, 2005, jointly carry out such epidemiological studies relating to veterans' health conditions that develop as a result of occupational exposure during military service as such Secretaries consider appropriate.

(b) PURPOSE.—The purpose of the protocols is to facilitate determinations by the Department of Veterans Affairs of the existence and extent of a connection any illness or injury experienced by a former member of the Armed Forces after separation from the Armed Forces and the exposure of the member to toxic or hazardous substances in the course of the member's duties or assignments as a member of the Armed Forces.

(c) MECHANISMS.—The matters referred to in this subsection with respect to a member of the Armed Forces are as follows:

(1) The identification of illnesses and injuries incurred or aggravated in the course of such duties or assignments.

(2) Any exposures of the member in the course of such duties or assignments to toxic or hazardous substances.

(3) Any illness or injury of the member incurred or aggravated in the course of such duties or assignments.

(d) ELEMENTS OF PROTOCOLS.—The protocols on the sharing of information developed under subsection (a) shall include the following:

(1) Mechanisms to ensure that the Department of Veterans Affairs receives information to facilitate the timely and accurate assessment of the illnesses or injuries of a member of the Armed Forces that may have been incurred or aggravated by the member's exposure to toxic or hazardous substances during service in the Armed Forces.

(2) Mechanisms that provide, to the maximum extent practicable consistent with the national security interests of the United States, for the declassification of information necessary to achieve the purpose of the protocols.

(3) Procedures to ensure that information is shared under the protocols as a matter of routine operations of the Department of Defense and the Department of Veterans Affairs.

(e) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to Congress a report on the protocols developed under subsection (a).

"(f) FUNDING.—(1) DEPARTMENT OF DEFENSE.—Amounts authorized to be appropriated for fiscal year 2006 for the Department of Veterans Affairs for the development of protocols under subsection (a) are as follows:

(2) DEPARTMENT OF VETERANS AFFAIRS.—Amounts authorized to be appropriated for fiscal year 2006 for the Department of Veterans Affairs for development of protocols under subsection (a) are as follows:

SEC. 308. COORDINATION OF LONG-TERM RESEARCH ON HEALTH CARE.

(a) DEPARTMENT OF VETERANS AFFAIRS REPRESENTATIVE ON ARMED FORCE EPIDEMIOLOGICAL BOARD.—

(1) IN GENERAL.—The Secretary of Defense shall appoint to the Armed Force Epidemiological Board, as an ex officio member, an officer of the Department of Veterans Affairs designated by the Secretary of Veterans Affairs for the purpose of the appointment.

(2) PURPOSE.—The purpose of the appointment under this subsection is to ensure that the Armed Forces Epidemiological Board considers and takes into account the views and recommendations of the Department of Veterans Affairs in advising the Assistant Secretary for Health Affairs and the Surgeon General of the Armed Forces.

(b) DEPARTMENT OF VETERANS AFFAIRS REPRESENTATIVE ON DEPARTMENT OF DEFENSE SAFETY AND OCCUPATIONAL HEALTH COMMITTEE.—

(1) IN GENERAL.—The Secretary of Defense shall appoint to the Department of Defense Safety and Occupational Health Committee, as an ex officio member, an officer of the Department of Veterans Affairs designated by the Secretary of Veterans Affairs for the purpose of this subsection.

(2) PURPOSE.—The purpose of the appointment under this subsection is to ensure that the Department of Defense and the Department of Veterans Affairs establish and maintain effective collaboration on matters relating to occupational safety and health of current and former members of the Armed Forces.

(c) ANNUAL REPORT ON FORCE HEALTH PROTECTION.—Not later than March 1 each year, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to Congress each year a report on the efforts of the Department of Defense and Department of Veterans Affairs, respectively, during the preceding calendar year, to accomplish the following:

(1) The identification of illnesses and injuries incurred or aggravated by members of the Armed Forces during service in the Armed Forces through exposure to occupational hazards and other toxic and hazardous substances.

(2) The conduct of epidemiological studies on the health consequences of exposure of members of the Armed Forces to occupational hazards and other toxic and hazardous substances during service in the Armed Forces.

(3) The development of guidance and other information on policies and practices intended to prevent, reduce, or mitigate the exposure of members of the Armed Forces to occupational hazards and other toxic and hazardous substances during service in the Armed Forces.

TITLE IV.—INCREASED GOVERNMENT COMMITMENT TO VETERANS' EDUCATION

SEC. 401. SHORT TITLE.

This title may be cited as the "Montgomery GI Bill for the 21st Century Act".

SEC. 402. FINDINGS.

Congress makes the following findings:

"(1) 2004 marked the 60th anniversary of the Montgomery GI Bill, better known as the G.I. Bill. Out of a eligible population of 15,500,000 veterans, nearly 21,000,000 veterans have now received educational assistance through the G.I. Bill and its successors.

"(2) Since Congress first enacted the G.I. Bill, veterans' benefits have been updated to keep pace with changing times. Over 21,000,000 veterans have now received educational assistance through the G.I. Bill and its successors.

"(3) Congress has a duty to ensure that the VA can continue to offer an education assistance program that enables veterans to achieve their higher education and make a successful transition from military to civilian life.

SEC. 403. EXCLUSION OF BASIC PAY CONTRIBUTIONS IN CERTAIN COMPUTATIONS ON STUDENT FINANCIAL AID.

(a) EXCLUSION.—Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3020A. Exclusion of basic pay contributions in certain computations on student financial aid.

"(a) IN GENERAL.—The expected family contribution computed under section 475, 476, or 477 of the Higher Education Act of 1965 (20 U.S.C. 1087c, 1087e, or 1087g) for a covered student shall be decreased by $1,200 for the applicable year.

(b) DEFINITIONS.—In this section:

"(1) The term 'academic year' means any academic year for a student who is age 21 or older and enrolled in a postsecondary educational institution.

"(2) The term ‘applicable year’ means the academic year for which a student uses entitlement to basic educational assistance under this chapter.

"(3) The term ‘covered student’ means any individual entitled to basic educational assistance under this chapter whose basic pay or voluntary separation incentives was used to pay for tuition and fees in the academic year referred to in paragraph (1).

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of this title is amended by inserting after the item relating to section 3020 the following new item:

"§ 3020A. Exclusion of basic pay contributions in certain computations on student financial aid."
SEC. 404. OPPORTUNITY FOR ENROLLMENT IN BASIC EDUCATIONAL ASSISTANCE PROGRAM OF CERTAIN INDIVIDUALS PARTICIPATED OR WERE INCLUDED THEREFROM WITH AN HONORABLE DISCHARGE OR RELEASED FROM MILITARY SERVICE.—

(a) Opportunity for enrollment.—Section 3018C(e) of title 38, United States Code, is amended—

(1) in paragraph (1), by inserting “or (3)” after “(2)”; and

(2) by redesigning paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively;

(b) Eligible surviving spouses.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

“(3) Notwithstanding the provisions of paragraph (1) of this subsection, any eligible person (as defined in section 3501(a)(1)(B) or (D)(ii) of this title) who, during the 10-year period described in paragraph (1) of this subsection, enrolls in a program of special restorative training under subchapter V of this chapter may be afforded educational assistance under this chapter during the 10-year period beginning on the first day of the individual’s pursuit of such program of special restorative training.”;

By Mr. BINGAMAN (for himself, Mr. REID, Mr. KENNEDY, Mr. CORZINE, Mr. DURBIN, Mr. REED, Mr. SCHUMER, Mr. DODD, Mr. HARKIN, Mrs. MURkowski, Mr. STABENOW, Mr. LUTENBERG, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. INOUYE, Mr. ROCKEFELLER, Mr. SARBANES, and Mr. DAYTON).

S. 15. A bill to improve education for all students, and for other purposes; to the Committee on Finance Mr. BINGAMAN. Mr. President, 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. 15

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 “Quality Education for All Act”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—STRENGTHENING HEAD START AND CHILD CARE PROGRAMS

Sec. 101. Authorization of appropriations.

Sec. 102. Strengthening Indian and migrant and seasonal Head Start programs.

Sec. 103. Expansion of Early Head Start programs.

Sec. 104. Participation in Head Start programs.

TITLE II—ENHANCING THE SCHOOL READINESS OF HEAD START CHILDREN

Sec. 111. School readiness standards.

Sec. 112. Staffing.

TITLE III—EXPANDING ACCESS TO QUALITY, AFFORDABLE CHILD CARE

Sec. 121. Authorization of appropriations.

TITLE IV—STRENGTHENING QUALITY OF CHILD CARE

Sec. 131. State plan requirements relating to training.

Sec. 132. Strengthening the quality of child care.

TITLE V—MAKING COLLEGE AFFORDABLE FOR ALL STUDENTS


Sec. 203. Grant program.

Sec. 204. Authorization of appropriations.

TITLE VI—SENSE OF THE SENATE REGARDING FULLY FUNDING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT BY 2011

Sec. 301. Findings.

Sec. 302. Sense of the Senate regarding authorization of appropriations.

TITLE VII—PROVIDING A ROADMAP FOR FIRST GENERATION COLLEGE FOR STUDENTS

Sec. 701. Expansion of TRIO and GEARUP.

TITLE VIII—TUITION RELIEF FOR STUDENTS AND THEIR FAMILIES THROUGH PELL GRANTS

Sec. 801. Pell Grants tax tables hold harmless.

Sec. 802. Sense of the Senate regarding increasing the maximum Pell Grant.

Sec. 803. Establishment of a Pell demonstration program.

TITLE IX—TUITION FREE COLLEGE FOR MATHEMATICS, SCIENCE, AND SPECIAL EDUCATION TEACHERS

Sec. 901. Purpose.

Sec. 902. Tuition free college for mathematics, science, and special education teachers.

Sec. 903. Offset for tuition free college for mathematics, science, and special education teachers.

TITLE X—MAKING COLLEGE AFFORDABLE FOR ALL STUDENTS

Sec. 1001. Expansion of deduction for higher education expenses.

Sec. 1002. Credit for interest on higher education expenses.

Sec. 1003. Hope and Lifetime Learning credits to be refundable.
TITLE I—STRENGTHENING HEAD START AND CHILD CARE PROGRAMS

Subtitle A—Increasing Access to Head Start Programs

SECTION 101. AUTHORIZATION OF APPROPRIATIONS.

Section 638(a) of the Head Start Act (42 U.S.C. 9834(a)) is amended by striking “such sums” and all that follows and inserting the following: “$5,576,000,000 for fiscal year 2008; $5,640,000,000 for fiscal year 2009; $5,724,000,000 for fiscal year 2010.”

SECTION 102. STRENGTHENING INDIAN AND MIGRANT AND SEASONAL HEAD START PROGRAMS.

Section 610(a)(2) of the Head Start Act (42 U.S.C. 9835(a)(2)) is amended by striking “a Head Start agency may apply to the Secretary to con-” and inserting the following: “(A) Indian Head Start programs, services for children with disabilities, and migrant and seasonal Head Start programs, except that the Secretary shall reserve for each fiscal year for use by Indian Head Start and mi-”

SEC. 103. EXPANDING EARLY HEAD START PROGRAMS.

Section 610(a)(2)(B) of the Head Start Act (42 U.S.C. 9835(a)(2)(B)) is amended by striking “part-day sessions, particularly consecu-” and inserting the following: “part-day sessions, particularly consecu-”

SEC. 111. SCHOOL READINESS STANDARDS.

Section 641A(1)(a)(1)(B)(ii) of the Head Start Act (42 U.S.C. 9836(a)(1)(B)(ii)) is amended by striking “at a minimum” and all that follows and inserting the following: “at a minimum, develop and demonstrate—”

SEC. 112. STAFF QUALIFICATIONS AND DEVELOPMENT.

Section 648A of the Head Start Act (42 U.S.C. 9836a) is amended—

(a) STAFF QUALIFICATIONS AND DEVELOPMENT.

(b) R EQUIREMENT FOR NEW HEAD START TEACHERS; TRIBAL COLLEGE AND UNIVERSITY-HEAD START PARTNERSHIP PROGRAM.

SEC. 113. PARTICIPATION IN HEAD START PROGRAM.

Section 640(a)(6) of the Head Start Act (42 U.S.C. 9834(a)(6)) is amended—

(c) PROFESSIONAL DEVELOPMENT PLANS.

(d) PROGRAM.

SEC. 114. PAYMENT FOR TRAINING AND RESEARCH.

SEC. 115. ADJUSTMENT OF GRANTS.

SEC. 116. DETERMINATION OF QUALITY.

Subtitle B—Enhancing the School Readiness of Head Start Children

SEC. 104. PARTICIPATION IN HEAD START PROGRAM.

SEC. 105. DELAY IN THE EFFECT OF THE QUALITY EDUCATION FOR ALL ACT.

SEC. 106. COMPENSATION AND BENEFITS.

SEC. 107. FUNDING FOR Virginia.

SEC. 108. IMPROVEMENTS IN THE QUALITY OF HEAD START.

SEC. 109. GRANT PROGRAMS.

SEC. 110. HEAD START AND MENTAL HEALTH.

SEC. 111. ADOPTION AND USE OF CURRICULUM.

SEC. 112. STAFF QUALIFICATIONS AND DEVELOPMENT.

SEC. 113. PARTICIPATION IN HEAD START PROGRAM.

SEC. 114. PAYMENT FOR TRAINING AND RESEARCH.

SEC. 115. ADJUSTMENT OF GRANTS.

SEC. 116. DETERMINATION OF QUALITY.

Subtitle C—Supporting Head Start Teachers

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

SEC. 102. STRENGTHENING INDIAN AND MIGRANT AND SEASONAL HEAD START PROGRAMS.

SEC. 103. EXPANDING EARLY HEAD START PROGRAMS.

SEC. 104. PARTICIPATION IN HEAD START PROGRAM.

SEC. 105. DELAY IN THE EFFECT OF THE QUALITY EDUCATION FOR ALL ACT.

SEC. 106. COMPENSATION AND BENEFITS.

SEC. 107. FUNDING FOR Virginia.

SEC. 108. IMPROVEMENTS IN THE QUALITY OF HEAD START.

SEC. 109. GRANT PROGRAMS.

SEC. 110. HEAD START AND MENTAL HEALTH.

SEC. 111. ADOPTION AND USE OF CURRICULUM.

SEC. 112. STAFF QUALIFICATIONS AND DEVELOPMENT.

SEC. 113. PARTICIPATION IN HEAD START PROGRAM.

SEC. 114. PAYMENT FOR TRAINING AND RESEARCH.

SEC. 115. ADJUSTMENT OF GRANTS.

SEC. 116. DETERMINATION OF QUALITY.

Subtitle D—Supporting Head Start Programs

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

SEC. 102. STRENGTHENING INDIAN AND MIGRANT AND SEASONAL HEAD START PROGRAMS.

SEC. 103. EXPANDING EARLY HEAD START PROGRAMS.

SEC. 104. PARTICIPATION IN HEAD START PROGRAM.

SEC. 105. DELAY IN THE EFFECT OF THE QUALITY EDUCATION FOR ALL ACT.

SEC. 106. COMPENSATION AND BENEFITS.

SEC. 107. FUNDING FOR Virginia.

SEC. 108. IMPROVEMENTS IN THE QUALITY OF HEAD START.

SEC. 109. GRANT PROGRAMS.

SEC. 110. HEAD START AND MENTAL HEALTH.

SEC. 111. ADOPTION AND USE OF CURRICULUM.

SEC. 112. STAFF QUALIFICATIONS AND DEVELOPMENT.

SEC. 113. PARTICIPATION IN HEAD START PROGRAM.

SEC. 114. PAYMENT FOR TRAINING AND RESEARCH.

SEC. 115. ADJUSTMENT OF GRANTS.

SEC. 116. DETERMINATION OF QUALITY.

Subtitle E—Supporting and Strengthening Programs

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

SEC. 102. STRENGTHENING INDIAN AND MIGRANT AND SEASONAL HEAD START PROGRAMS.

SEC. 103. EXPANDING EARLY HEAD START PROGRAMS.

SEC. 104. PARTICIPATION IN HEAD START PROGRAM.

SEC. 105. DELAY IN THE EFFECT OF THE QUALITY EDUCATION FOR ALL ACT.

SEC. 106. COMPENSATION AND BENEFITS.

SEC. 107. FUNDING FOR Virginia.

SEC. 108. IMPROVEMENTS IN THE QUALITY OF HEAD START.

SEC. 109. GRANT PROGRAMS.

SEC. 110. HEAD START AND MENTAL HEALTH.

SEC. 111. ADOPTION AND USE OF CURRICULUM.

SEC. 112. STAFF QUALIFICATIONS AND DEVELOPMENT.

SEC. 113. PARTICIPATION IN HEAD START PROGRAM.

SEC. 114. PAYMENT FOR TRAINING AND RESEARCH.

SEC. 115. ADJUSTMENT OF GRANTS.

SEC. 116. DETERMINATION OF QUALITY.
prekindergarten and kindergarten teachers employed by the local educational agency for the school district in which the Head Start agency is located, with similar training, educational background, and experience.

“(d) SALARIES IN HIGH-COST AREAS.—The Secretary may reserve and use a portion of the funds available under section 639(c) to assist Head Start agencies located in high-cost areas to help reduce the discrepancy between such average salaries of such teachers and such average salaries of such prekindergarten and kindergarten teachers.

“SEC. 648C. TRIBAL COLLEGE OR UNIVERSITY-HEAD START PARTNERSHIP PROGRAM.—

“(a) Tribal College or University-Head Start Partnership Program.—

“(1) GRANTS.—The Secretary is authorized to award grants, of not less than 5 years duration, to Tribal Colleges and Universities to—

“(A) implement education programs that include tribal culture and language and increase the number of associate, baccalaureate, and graduate degrees in early childhood education and related fields that are career or technical education programs; and

“(B) develop and implement the programs under subparagraph (A) in technology-mediated formats;

“(C) provide technology literacy programs for Indian Head Start agency staff members and children and families of children served by such an agency;

“(2) STAFFING.—The Secretary shall ensure that the Higher Education Act of 1965 (20 U.S.C. 101(a)) is amended—

“(A) by striking ‘‘Indian’’ and inserting ‘‘tribal’’;

“(B) by striking ‘‘tribal’’ and inserting ‘‘American Indian’’;

“(C) by striking ‘‘tribal’’ and inserting ‘‘institutions that are in effect within the State that are accredited by an entity approved by the Secretary’’; and

“(D) by inserting ‘‘and approved by the Secretary’’ after ‘‘tribal’’.

“SEC. 685B. TRIBAL COLLEGE OR UNIVERSITY—

“SEC. 121. AUTHORIZATION OF APPROPRIATIONS.—

Section 638B(c) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended—

“(1) by striking ‘‘as’’ and inserting ‘‘are’’; and

“(2) by striking ‘‘subchapter’’ and all that follows and inserting ‘‘subchapter $2,090,000,000 for fiscal year 2006, $2,050,000,000 for fiscal year 2007, $2,010,000,000 for fiscal year 2008, $1,970,000,000 for fiscal year 2009, and $1,930,000,000 for fiscal year 2010.’’

“Subtitle D—Strengthening the Quality of Child Care

“SEC. 131. STATE PLAN REQUIREMENTS RELATING TO TRAINING.—

Section 658G(c) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858g) is amended—

“(1) by inserting ‘‘subchapter’’ and all that follows and inserting ‘‘subchapter $2,090,000,000 for fiscal year 2006, $2,050,000,000 for fiscal year 2007, $2,010,000,000 for fiscal year 2008, $1,970,000,000 for fiscal year 2009, and $1,930,000,000 for fiscal year 2010.’’

“(2) by striking ‘‘as’’ and inserting ‘‘are’’; and

“(3) by striking ‘‘subchapter’’ and all that follows and inserting ‘‘subchapter $2,090,000,000 for fiscal year 2006, $2,050,000,000 for fiscal year 2007, $2,010,000,000 for fiscal year 2008, $1,970,000,000 for fiscal year 2009, and $1,930,000,000 for fiscal year 2010.’’

“Subtitle F—Strengthening the Quality of Child Care

“SEC. 132. STRENGTHENING THE QUALITY OF CHILD CARE

“SEC. 131. STATE PLAN REQUIREMENTS RELATING TO TRAINING.

“(a) General.—

“(1) RESERVATION.—Each State that receives funds pursuant to section 639(a) for a fiscal year shall reserve and use not less than 6 percent of the funds for activities provided directly, or through grants or contracts with resource and referral organizations or other appropriate entities, that are designed to improve the quality of child care services.

“(2) ACTIVITIES.—The funds reserved under paragraph (1) may only be used to—

“(A) develop and implement voluntary guidelines on pre-reading and language skills, and other appropriate early childhood programs in the State, that are aligned with State standards for kindergarten through grade 12 or the State’s general goals for school preparedness;

“(B) support activities and provide technical assistance in child care settings to enhance early learning for young children, to promote literacy, and to foster school preparedness;

“(C) offer training, professional development, and other appropriate opportunities for child care providers that relate to the use of developmentally appropriate and age-appropriate curricula, and early childhood teaching in developmentally appropriate and aligned with the social, emotional, physical, and cognitive development of children, including—

“(i) developing and operating distance learning child care training infrastructures;

“(ii) developing model technology-based training courses;

“(iii) offering training for caregivers in informal child care settings; and

“(iv) offering training for child care providers who care for infants and toddlers and children with special needs.

“(D) engage in programs designed to increase the retention and improve the competitiveness of child care providers, including wage incentive programs and initiatives that establish tiered payment rates for providers that meet or exceed child care services guidelines, as defined by the State;

“(E) evaluate and assess the quality and effectiveness of child care programs and services offered in the State to young children on improving overall service outcomes; and

“(F) carry out other activities determined by the State to improve the quality of child care services provided in the State for which funds are appropriated under this subchapter.

“(2) Certification.—For each fiscal year beginning after September 30, 2005, the State shall annually submit to the Secretary a certification in which the State certifies and demonstrates that the State was in compliance with subsection (a) during the preceding fiscal year and describes how the State used the funds made available to carry out this subchapter to comply with subsection (a) during that preceding fiscal year.”

“TITLE II—PROVIDING SAFE, RELIABLE TRANSPORTATION FOR RURAL SCHOOL CHILDREN

“SEC. 201. FINDINGS AND PURPOSE.—

“(a) FINDINGS.—Congress finds that—

“(1) school transportation issues have consequences for parents, local educational agencies, lawmakers, the National Highway Traffic Safety Administration, the National Transportation Safety Board, and the Environmental Protection Agency; and

“(2) millions of children face potential future health problems because of exposure to noxious fumes emitted from older school buses.

“(b) PURPOSE.—The purpose of this title is to establish within the Department of Education a Federal cost-sharing program to assist local educational agencies and rural local educational agencies and rural local educational agencies that are in effect within the State that are accredited by an entity approved by the Secretary’’.
SEC. 202. DEFINITIONS. 

In this title: 

(1) RURAL LOCAL EDUCATIONAL AGENCY.—The term "rural local educational agency" means a local educational agency, as defined in section 611 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311), and includes an educational service agency or educational cooperative that is a subsidiary of a rural local educational agency.

(2) SCHOOL BUS.—The term "school bus" means a vehicle the primary purpose of which is to transport students to and from school or school activities.

SEC. 203. GRANT PROGRAM. 

(a) In General.—From amounts appropriated under subsection (e) for a fiscal year, the Secretary shall provide grants, on a competitive basis, for each rural local educational agency to pay the Federal share of the cost of purchasing new school buses.

(b) Application. 

(1) In General.—Each rural local educational agency that seeks to receive a grant under this title shall submit to the Secretary an application at such time, in such manner, and accompanied by such information (in addition to information required under paragraph (2)) as the Secretary may require.

(2) Contents.—Each application submitted under paragraph (1) shall include—

(A) a description of the number of public school students in those rural local educational agencies that would benefit from the proposed purchase of school buses;

(B) an enumeration of the number of miles that each school bus operated by the rural local educational agency traveled in the most recent 9-month academic year;

(C) documentation of the number of miles of each school bus operated by the rural local educational agency in the most recent 9-month academic year; 

(D) a certification from the rural local educational agency that the proposed purchase will not displace programs and school transportation needs (including the number of new school buses needed by the rural local educational agency); and

(E) an assurance that the rural local educational agency will pay the non-Federal share of the cost of the proposed purchase of school buses under this title from non-Federal sources.

(c) Priority.—In providing grants under this title, the Secretary shall give priority to rural local educational agencies that—

(1) transport students in a bus manufactured before 1977;

(2) have a grossly depleted fleet of school buses; or

(3) serve a school that is required, under section 611 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(9)), to provide transportation to students to enable the students to transfer to another public school served by the rural local educational agency;

(4) use of Funds.—School buses purchased with grant funds under subsection (a) shall be in compliance with proposed air quality regulations and standards of the Environmental Protection Agency for 2006.

(5) Payments; Federal Share.—

(1) Payments.—The Secretary shall pay to each rural local educational agency having an application approved under paragraph (a) an amount equal to the Federal share described in paragraph (2) of the cost of purchasing such number of new school buses as is specified in the approved application.

(2) Federal Share.—The Federal share of the cost of purchasing a new school bus under this title shall be 50 percent.

SEC. 204.USE OF FUNDS. 

There are authorized to be appropriated to carry out this title $50,000,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 through 2010.

TITLE III—SENSE OF THE SENATE REGARDING FULLY FUNDING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEC. 301. FINDINGS. 

(a) Findings.—The Senate finds the following:

(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

(2) Before the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94-142; the predecessor to the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the educational needs of millions of children with disabilities were not being fully met because—

(A) the children did not receive appropriate educational services;

(B) the children were excluded entirely from the public school system and from being educated with their peers;

(C) undiagnosed disabilities prevented the children from having a successful educational experience; or

(D) a lack of adequate resources within the public school system forced such families to find services outside the public school system.

(3) The Individuals with Disabilities Education Act has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

(4) The implementation of the Individuals with Disabilities Education Act has been impeded by the Federal Government’s failure to honor the commitment it made 30 years ago to provide States with 40 percent of the excess cost of special education.

(5) While States, local educational agencies, and educational service agencies are primarily responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government have a supporting role in assisting State and local efforts to educate children with disabilities.

(6) Congress passed authorizing language to fund the Individuals with Disabilities Education Act and should appropriate such sums as authorized.

(7) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals with disabilities.

SEC. 302. SENSE OF THE SENATE REGARDING AUTHORIZATION OF APPROPRIATIONS.

It is the sense of the Senate that for the purpose of carrying out the Federal Government’s commitment to children, parents, and the States, there should be authorized to be appropriated—

(1) $14,648,647,143 or the maximum amount available for awarding grants under section 611(a)(2) of the Individuals with Disabilities Education Act, whichever is lower, for fiscal year 2006, and there should be appropriated $4,058,901,319 for fiscal year 2006, which should become available for obligation on July 1, 2006, and should remain available through September 30, 2007, except that if the maximum amount available for awarding grants under section 611(a)(2) of such Act is less than $14,648,647,143, then the amount should be reduced by the difference between $14,648,647,143 and the maximum amount available for awarding grants under section 611(a)(2) of such Act.

(2) $16,938,917,714 or the maximum amount available for awarding grants under section 611(a)(2) of the Individuals with Disabilities Education Act, whichever is lower, for fiscal year 2007, and there should be appropriated $6,398,171,890 for fiscal year 2007, which should become available on July 1, 2007, and should remain available through September 30, 2008, except that if the maximum amount available for awarding grants under section 611(a)(2) of such Act is less than $16,938,917,714, then the amount should be reduced by the difference between $16,938,917,714 and the maximum amount available for awarding grants under section 611(a)(2) of such Act.

(3) $19,229,188,286 or the maximum amount available for awarding grants under section 611(a)(2) of the Individuals with Disabilities Education Act, whichever is lower, for fiscal year 2008, and there should be appropriated $8,639,442,462 for fiscal year 2008, which should become available for obligation on July 1, 2008, and should remain available through September 30, 2009, except that if the maximum amount available for awarding grants under section 611(a)(2) of such Act is less than $19,229,188,286, then the amount should be reduced by the difference between $19,229,188,286 and the maximum amount available for awarding grants under section 611(a)(2) of such Act.

(4) $21,519,458,857 or the maximum amount available for awarding grants under section 611(a)(2) of the Individuals with Disabilities Education Act, whichever is lower, for fiscal year 2009, and there should be appropriated $9,209,713,035 for fiscal year 2009, which should become available for obligation on July 1, 2009, and should remain available through September 30, 2010, except that if the maximum amount available for awarding grants under section 611(a)(2) of such Act is less than $21,519,458,857, then the amount should be reduced by the difference between $21,519,458,857 and the maximum amount available for awarding grants under section 611(a)(2) of such Act.

(5) $23,809,729,429 or the maximum amount available for awarding grants under section 611(a)(2) of the Individuals with Disabilities Education Act, whichever is lower, for fiscal year 2010, and there should be appropriated $11,029,713,165 for fiscal year 2010, which should become available for obligation on July 1, 2010, and should remain available through September 30, 2011, except that if the maximum amount available for awarding grants under section 611(a)(2) of such Act is less than $23,809,729,429, then the amount...
should be reduced by the difference between $23,809,729,429 and the maximum amount available for awarding grants under section 611(a)(2) of such Act; and

(6) the obligations of the maximum amount available for awarding grants under section 611(a)(2) of such Act are

(ii) in clause (ii), by inserting "and" before the end of clause (ii); and

(iii) in the case

and inserting the following:

- (d) AWARD BASIS.--From funds remaining after awarding grants under subsection (c), the Secretary shall award grants to local educational agencies that are experiencing overcrowding in the schools served by the local educational agencies.

- (e) PREVAILING WAGES.--Any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction funded by a grant awarded under this section will be paid wages at a rate not less than the prevailing rate prevailing on similar construction in the locality as determined by the Secretary of Labor under subchapter IV of chapter 31 of title 40, United States Code.

- (2) the maximum amount available for awarding grants under section 611(a)(2) of such Act is

less than $20,100,000,000, then the amount should be reduced by the difference between $20,100,000,000 and the maximum amount available for awarding grants under section 611(a)(2) of such Act.

- (3) by inserting "inserting" in the case

A Public School Choice, Supplemental Educational Services, and Teacher Quality

SEC. 401. PUBLIC SCHOOL CHOICE CAPACITY.

(a) School Capacity.--Section 1116(b)(1)(E) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(1)(E)) is amended--

(1) in clause (i), by striking "in the case" and inserting "subject to clauses (ii) and (iii), in the case";

(2) by redesignating clause (ii) as clause (iii);

(3) by inserting after clause (i) the following:

"(ii) School Capacity.--The obligation of a local educational agency to provide the option to parents of students under clause (i) is subject to all applicable State and local health and safety code requirements regarding facility capacity";

and

(4) in clause (iii), by striking the period at the end of clause (iii) and inserting a period.

(b) Grants for School Construction and Renovation.--

(1) in general.--Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by adding at the end the following:

"SEC. 1120C. GRANTS FOR SCHOOL CONSTRUCTION AND RENOVATION.--

(a) Programs Authorized.--From funds appropriated under section 6(c), the Secretary is authorized to award grants to local educational agencies for the construction and renovation of safe, healthy, high-performance school buildings.

(b) The Application.--Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may require.

(c) Priority.--In awarding grants under this section, the Secretary shall give priority to local educational agencies that

- (1) who have documented difficulties in meeting the public school choice requirements of paragraphs (1)(E), (5)(A), (7)(C)(i), or (8)(A)(ii) of section 1116(b), or section 1116(c)(10)(C)(viii); and

- (2) with the highest number of schools at or above capacity;

and

(d) Award Basis.--From funds remaining after awarding grants under subsection (c), the Secretary shall award grants to local educational agencies that are experiencing overcrowding in the schools served by the local educational agencies.

(e) Prevailing Wages.--Any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction funded by a grant awarded under this section will be paid wages at a rate not less than the prevailing rate prevailing on similar construction in the locality as determined by the Secretary of Labor under subchapter IV of chapter 31 of title 40, United States Code.

(f) Definitions.--In this section:

"(1) AT OR ABOVE CAPACITY.--The term 'at or above capacity', in reference to a school, means a school in which one additional student would increase the average class size of the school above the average class size of all schools in the State in which the school is located.

"(2) HEALTHY, HIGH-PERFORMANCE SCHOOL BUILDING.--The term 'healthy, high-performance school building' means a school in which one additional student would increase the average class size of the school above the average class size of all schools in the State in which the school is located.

"(g) Authorization of Appropriations.--There are authorized to be appropriated to carry out this section $250,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 2 succeeding fiscal years.

"(2) Table of Contents.--The table of contents of this Act shall be deemed to be programs or activities described in paragraph (1)(E), and subject to clauses (ii) and (iii) as paragraphs (7), (8), (9), (10), (11), and (12) as paragraphs (7), (8), (9), (10), (11), and (12), respectively;

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

"(6) Rule of Construction.--Nothing in this section shall be construed to prohibit a provider of supplemental educational services from being considered by a State educational agency as a potential provider of supplemental educational services under this subsection, if such local educational agency makes the criteria adopted by the State educational agency in accordance with paragraph (5); and

(5) in paragraph (13) (as redesignated by paragraph (3)(B))

(A) in subparagraph (B)

"(i) in clause (ii), by striking "and" after the semicolon;

(ii) in clause (iii), by striking "and" after the semicolon; and

(iii) by adding at the end the following:

iv) may employ teachers who are highly qualified, as such term is defined in section 9101; and

v) pursuant to its inclusion on the relevant State educational agency's list described in paragraph (4)(C), is deemed to be a recipient of Federal financial assistance; and"

and

(B) in subparagraph (C)

"(i) in the matter preceding clause (i), by striking "are";

(ii) in clause (i)--

"(I) by inserting "are" before "in addition," and

"(II) by striking "and" after the semicolon;

(iii) in clause (ii), by striking the period and inserting ";" and

(iv) by adding at the end the following:

"(iii) if provided by providers that are included on the relevant State educational agency's list described in paragraph (4)(C), is deemed to be a recipient of the activities of the relevant State educational agency; and"

and

by adding at the end the following:

"(14) Civil Rights.--In providing supplemental educational services under this subsection, no State educational agency or local educational agency may, directly or through contractual, licensing, or other arrangements with a provider of supplemental educational services, engage in any form of discrimination prohibited by--

"(A) Title VI of the Civil Rights Act of 1964;

"(B) title IX of the Education Amendments of 1972;

"(C) section 504 of the Rehabilitation Act of 1973;" and

"(D) titles II and III of the Americans with Disabilities Act;"

"(E) the Age Discrimination Act of 1975;"

"(F) regulations promulgated under the authority of the laws listed in subparagraphs (A) through (E); or

"(G) other Federal civil rights laws."
(2) by redesignating subsections (e), (f), (g), (h), (i), (j), (k), and (l) as subsections (f), (g), (h), (i), (j), (k), and (l), respectively; and
(3) by inserting after subsection (d) the following:

"(e) STATE RESPONSIBILITIES.—Each State educational agency shall ensure that local educational agencies in the State make available a defined program of subpar-
graphs (A) through (C) of subsection (c)(1) to each new or existing paraprofessional for the purpose of demonstrating the qualifications of the paraprofessional, consistent with the requirements of this section."; and

(4) in subsection (l) (as redesignated by paragraph (2)), by striking "subsection (l) and inserting "subsection (m)".

(b) DEFINITION OF HIGHLY QUALIFIED TEACHERS.—Section 9101(23)(B)(i)(1) is amended—

(1) in subclause (I), by striking "or" after the semicolon; and

(2) in subclause (II), by striking "and" after the semicolon; and

(3) by adding at the end the following:

"(III) in the case of a middle school teacher, passing a State-approved middle school generalist exam when the teacher receives a license to teach middle school in the State; "(IV) obtaining the middle school or secondary school school studies certificate that qualifies the teacher to teach history, geography, economics, civics, and government in middle schools or in secondary schools, respectively, in the State; or

"(V) obtaining a State middle school or secondary school science certificate that qualifies the teacher to teach earth science, biology, chemistry, and physics in middle schools or secondary schools, respectively, in the State; and"

(c) ENSURING HIGHLY QUALIFIED TEACHERS.—

(1) REQUIREMENT.—The Secretary of Education shall improve coordination among the State educational agencies in the State, the State clearinghouses, that have been successful in providing educators and parents with the need- ed information and support for identifying effective educational strategies, programs, and practices, including strategies, pro-
grams, and practices available through the clearinghouses supported under the Edu-
cation Sciences Reform Act of 2002 (20 U.S.C. 9501 et seq.) and other federally supported clearinghouses, that have been successful in improving educational opportunities and achievement for all students, with the State education agencies.

(2) BY ADDING AT THE END THE FOLLOWING:

"(3) the term ‘State educational agency’ means the State educational agency (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7601 et seq.), receiving funds under part A of title I of such Act (20 U.S.C. 6311 et seq.)."

(3) EFFECT OF REVISED DETERMINATION.—

(A) Section 9101(23)(B)(i)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7611(b)(2)(C)), as amended by this Act, shall apply to review by a State educational agency of a determination described in subsection (a) in the same manner and to the same extent as such provisions apply to review by a local educational agency of a determination described in section 421(a).\footnote{S 9602. TECHNICAL ASSISTANCE. ‘The Secretary shall ensure that the technical assistance provided by, and the research developed and disseminated through, the Institute of Education Sciences and other offices or agencies of the Department provide educators and parents with the need-
ed information and support for identifying effective educational strategies, programs, and practices, including strategies, pro-
grams, and practices available through the clearinghouses supported under the Edu-
cation Sciences Reform Act of 2002 (20 U.S.C. 9501 et seq.) and other federally supported clearinghouses, that have been successful in improving educational opportunities and achievement for all students, with the State education agencies.'

(b) TABLE OF CONTENTS.—The table of contents of the Elementary and Secondary Edu-
cation Act of 1965 (20 U.S.C. 7601 note) is amended by inserting after the last item relating to section 9001 the following:

"Sec. 9602. Technical assistance.’’

Subtitle B—ADEQUATE YEARLY PROGRESS DETERMINATIONS FOR SCHOOLS FOR THE 2002-2003 SCHOOL YEAR

(1) In General.—The Secretary shall re-
quire each State educational agency to pro-
vide each school served by the agency with an opportunity to request a review of a deter-
mination by the agency that the school did not make adequate yearly progress for the 2002-2003 school year.

(b) FINAL DETERMINATION.—Not later than 30 days after receiving a request by a school for a review under this section, a local edu-
cational agency shall issue and make public-
ly available a final determination on whether the school made adequate yearly progress for the 2002-2003 school year.

(c) EVIDENCE.—In conducting a review under this section, a local educational agency shall—

(1) allow the principal of the school involved to submit evidence on whether the school made adequate yearly progress for the 2002-2003 school year; and

(2) consider that evidence before making a final determination under subsection (b).

(3) AUTHORITY.—The Secretary shall conduct a review under this section, a local edu-
cational agency shall revise, consistent with applicable provisions under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311), the local edu-
cational agency’s original determination that a school made adequate yearly progress for the 2002-2003 school year if the agency finds that the school made such progress, taking into consideration—

(A) the assessment of limited English pro-
ficient children; and

(B) the inclusion of limited English pro-
ficient children as part of the subgroup de-

(c) any requirement under section 1111(b)(2)(III)(dd) of the Elementary and Sec-
ondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(III)(dd)).

(e) EFFECT OF REVISED DETERMINATION.—

(A) In general.—If pursuant to a review under this section a local educational agency determines that a school made adequate yearly progress for the 2002-2003 school year, upon such determination—

(1) the Secretary shall require each State educational agency to notify each school served by the agency of the school’s ability to request a review under this section; and

(2) not later than 30 days after the date of the enactment of this section, shall notify the Secretary of Education of the website of the review process estab-
lished under this section.

SEC. 422. REVIEW OF ADEQUATE YEARLY PROGRESS DETERMINATIONS FOR LOCAL EDUCATIONAL AGENCIES FOR THE 2002-2003 SCHOOL YEAR.

(a) In General.—The Secretary shall re-
quire each State educational agency to pro-
vide each local educational agency in the State with an opportunity to request a re-
vie

(b) APPLICATION OF CERTAIN PROVISIONS.—

Except as inconsistent with, or inapplicable to, this section, the provisions of section 421 shall apply to review by a State educational agency of a determination described in sub-
section (a) in the same manner and to the same extent as such provisions apply to review by a local educational agency of a determination described in section 421(a).

SEC. 423. DEFINITIONS.

In this subtitle:

(1) the term ‘adequate yearly progress’ has the meaning given to that term in section 1111(b)(2)(C) of the Elementary and Sec-
ondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)),

(2) the term ‘local educational agency’ means a local educational agency (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7601 et seq.), receiving funds under part A of title I of such Act (20 U.S.C. 6311 et seq.).

(3) the term ‘Secretary’ means the Sec-
cretary of Education.

(4) the term ‘school’ means an elemen-
tary school or a secondary school (as those terms are defined in section 9101 of the Ele-

(a) In General.—Part F of title IX of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7911) is amended—

(1) by inserting ‘‘AND TECHNICAL ASSISTANCE’’ after ‘‘EVALUATIONS’’; and

(2) by adding at the end the following:

SEC. 9603. TECHNICAL ASSISTANCE.

The Secretary shall ensure that the technical assistance provided by, and the research developed and disseminated through, the Institute of Education Sciences and other offices or agencies of the Department provide educators and parents with the need-
ed information and support for identifying effective educational strategies, programs, and practices, including strategies, pro-
grams, and practices available through the clearinghouses supported under the Edu-
cation Sciences Reform Act of 2002 (20 U.S.C. 9501 et seq.) and other federally supported clearinghouses, that have been successful in improving educational opportunities and achievement for all students, with the State education agencies.
systems for the purpose of measuring stu-
date, create, or manage longitudinal data
cies to develop or increase the capacity of
an academic year; and

the recognized equivalent of a secondary
diploma (which shall not include
educational agency
at a minimum, a demonstration of the local
require. Each such application shall include,
information as the State educational agency may
section shall submit an application to the
Secretary at such time, in such manner, and
containing such information as the Sec-
retary may require.

(c) STATE USE OF FUNDS.—Each State edu-
cational agency that receives a grant under
this section shall:
(1) not more than 20 percent of the grant
funds for the purpose of—
(A) increasing the capacity of, or creating,
State educational agencies to aggregate, dis-aggregate, and
report information related to student achievement, enrollment, and graduation rates for assessment and accountability pur-
poses; and

(B) reporting, on an annual basis, for the
elementary schools and secondary schools
within the State, on—
(i) the enrollment data from the beginning
of the academic year;
(ii) the enrollment data from the end of the academic year; and
(iii) the twelfth grade graduation rates; and

(ii) graduated on time by progressing 1
grade per academic year; represents of
(B) the total number of students who en-
ered the secondary school in the entry level
academic year applicable to the graduating
student.

(2) SECRETARY.—The term "Secretary" means the Secretary of
Education.

(3) STATE EDUCATIONAL AGENCY AND LOCAL
EDUCATIONAL AGENCY.—The terms "State
educational agency" and "local educational
agency" have the meanings given such terms in sections 1111 and Sec-

(g) AUTHORIZATION OF APPROPRIATIONS.—
There are authorized to be appropriated to
carry out this section $100,000,000 for fiscal
2006, and such sums as may be necessary for each of the 2 succeeding fiscal years.

SEC. 502. GRANTS FOR ASSESSMENT OF CHIL-
DREN WITH DISABILITIES AND CHIL-
DREN WHO ARE LIMITED ENGLISH PROFICIENT.

(a) GRANTS FOR ASSESSMENT OF CHILDREN
With Disabilities and Children Who Are Limited English Proficient.—Part
E of title I of the Elementary and Secondary Edu-
cation Act of 1965 (20 U.S.C. 6191 et seq.) is amended by adding at the end the following:

"SEC. 1566. GRANT OF CHILDREN WITH DISABILITIES
AND CHILDREN WHO ARE LIMITED ENGLISH
PROFICIENT.

(a) GRANTS AUTHORIZED.—From amounts
authorized to be appropriated under sub-
section (e) for a fiscal year, the Secretary shall award one competitive
grant to State educational agencies, or to con-
sortia of State educational agencies, to en-
able the State educational agencies or con-
sortia to collaborate with institutions of
higher education, research institutions, or other organizations
—
(1) to design and improve State academic
assessments for students who are limited
proficient and students with disabili-
ies;

(2) to ensure the most accurate, valid, and
reliable means to assess academic content
standards and student academic achieve-
ment standards for students who are limited
proficient and students with disabili-
ties.

(b) AUTHORIZED ACTIVITIES.—A grant
awarded under this section shall include
activities that provide for the reten-
"tion of all feasible standardized features in the alternate assessments:

(3) Developing, modifying, or revising
State policies and criteria for appropriate accommodations to ensure the full participa-
tion of students who are limited English prof-
cient and students with disabilities in State academic assessments, including—

(A) a plan to ensure that assessments provided with accommodations are included and linked to the acc-
countability system, for the purpose of mak-
ing the determinations of adequate yearly progress required under section 1116;

(B) ensuring the validity, reliability, and appropriateness of such accommodations, such as

a modification to the presentation or format of the assessment;

(ii) the use of assistive devices;

(iii) an extension of the time allowed for testing;

(iv) an alteration of the test setting or procedures;

(v) the administration of portions of the test in a method appropriate for the level of language proficiency of the test taker;

(vi) the use of a glossary or dictionary; and

(vii) the use of a linguistically modified assessment;

(C) ensuring that State policies and cri-
teria for appropriate accommodations take into account the forms of instruc-
tion provided to students, including the level of difficulty, reliability, cultural difference, and content equivalence of such form or pro-
gram;

(D) ensuring that such policies are con-
sistent with the standards prepared by the Joint Committee on Standards for Edu-
cational and Psychological Testing of the
American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education; and

(E) developing a plan for providing train-
ing on the use of accommodations to school instructional staff, families, students, and other appropriate groups.

(4) Developing universally designed as-
sements that can be accessible to all stu-
dents, including—

(i) requiring test item or test perform-
ance for students with disabilities and stu-
dents who are limited English proficient, to determine the extent to which the test item or test performs as intended for universally designed assessments;

(ii) developing a plan to ensure that the test items and test performances provide the reten-
tion of all feasible standardized features in the alternate assessments.

(1) graduated on time by progressing 1
grade per academic year; represents of
(B) the total number of students who en-
ered the secondary school in the entry level
academic year applicable to the graduating
students.

(2) the development of an implementa-
tion plan for pilot tests for such assess-
ments, in order to determine the level of ap-
propriateness and feasibility of full-scale admin-
istration; and

(3) activities that provide for the reten-
tion of all feasible standardized features in the alternate assessments.
(D) developing computer-based applications of universal design principles;

(c) APPLICATION.—Each State educational agency, or consortium of State educational agencies, desiring to apply for a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(1) information regarding the institutions of higher education, research institutions, or other organizations that are collaborating with the State educational agency or consortium, in accordance with subsection (a);

(2) in the case of a consortium of State educational agencies, the designation of 1 State educational agency as the fiscal agent for the receipt of grant funds;

(3) a description of the process and criteria by which the State educational agency will identify students that are unable to participate in general State content assessments and are eligible to take alternate assessments, consistent with the amendments made to part 200 of title 34, Code of Federal Regulations (68 Fed. Reg. 68608);

(4) in the case of a State educational agency carrying out the activity described in subsection (b)(1)(A), a description of how the State educational agency plans to fulfill the requirement of subsection (b)(1)(A);

(5) in the case of a State educational agency or consortium carrying out the activities described in paragraphs (1), (2), and (4) of subsection (a), information regarding the proposed techniques for the development of alternate assessments, including a description of the technical adequacy of, technical aspects of, and scoring for such assessments;

(6) a plan for providing training for school instructional staff, families, students, and other appropriate entities on the use of alternate assessments; and

(7) information on how the scores of students participating in alternate assessments will be reported to the public and to parents.

SEC. 504. CIVIL RIGHTS.

The Senate finds the following:

(1) Congress enacted, with bipartisan support, and the President signed into law the No Child Left Behind Act of 2001 (Public Law 107-110; 115 Stat. 1425), that reauthorized the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7911 et seq.), and inserted new provisions dealing with the achievement of all students, including students with disabilities, as well as other provisions.

(2) The opportunity to gain a postsecondary education also is important to the Nation as a means to help advance the American ideals of progress and equality.

(3) The Federal Government plays an invaluable role in making student financial aid available to ensure that qualified students can afford to attend college and meet their financial needs. The Pell Grant program in 1973, nearly 800,000 grants have helped low- and middle-income students to go to college, enrich their lives, and become productive members of society.

(4) Nationwide, almost 63 percent of secondary school graduates continue on to higher education immediately after completing secondary school. This degree of college participation would not exist without the Federal investment in student aid, especially the Pell Grant program. More than 4,000,000 low- and middle-income students receive Pell Grants; 95 percent of whom have a family income of no more than $40,000.

(5) In the next 10 years, the number of undergraduate students enrolled in the Nation’s colleges and universities will increase by 15 percent to more than 15,000,000 students. Many of these students will be the first in their families to attend college. The continued investment in the Pell Grant program is essential if college is to remain an achievable part of the American dream.

(6) Increasing the maximum Pell Grant to $5,100 would allow more than 430,000 additional students to benefit from the program. The additional cost of the expansion to $5,100 would result in 200,000 new Pell Grant recipients.

 SEC. 505. REPORTS ON STUDENT ENROLLMENT AND ADMISSIONS.

(a) STUDENT ENROLLMENT AND GRADUATION RATES.—Part E of title I of the Elementary and Secondary Education Act of 1965 (as amended by section 502) (20 U.S.C. 6391 et seq.) is amended by adding at the end the following:

(1) in section 402A(f), by striking "$700,000,000 for fiscal year 1999" and inserting "$5,100,000,000 for fiscal year 2006 and each of the 4 succeeding fiscal years".

(2) by striking section 402H and inserting the following:

SEC. 404H. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this section $400,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 4 succeeding fiscal years.

TITLE VII—PROVIDING A ROADMAP FOR FIRST GENERATION COLLEGE STUDENTS

SEC. 701. EXPANSION OF TRIO AND GEARUP.

The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in section 402A(f), by striking "$700,000,000 for fiscal year 1999" and inserting "$5,100,000,000 for fiscal year 2006 and each of the 4 succeeding fiscal years".

(2) by striking section 402H and inserting the following:

SEC. 404H. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this section $400,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 4 succeeding fiscal years.

TITLE VIII—COLLEGE TUITION RELIEF FOR STUDENTS AND THEIR FAMILIES THROUGH PELL GRANTS

SEC. 801. PELL GRANTS TAX TABLES HOLD HARMLESS.

Notwithstanding any other provision of law, the annual updates to the allowance for State and other taxes in the tables used in the Federal Need Analysis Methodology to determine a student’s expected family contribution for the award year 2005 under part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087k) et seq., published in the Federal Register on Thursday, December 23, 2004 (69 Fed. Reg. 76926), shall not apply to a student to the extent the updates will reduce the amount of Federal student financial assistance for which the student is eligible.

SEC. 802. SENATE OF THE SENATE REGARDING INCREASED MAXIMUM PELL GRANT.

(a) FINDINGS.—The Senate finds the following:

(1) Increasing the percentage of individuals who obtain a postsecondary education has become increasingly important, not just to the individual beneficiary, but to the Nation as a whole. The growth and continued expansion of the Nation’s economy is heavily dependent on an educated and highly skilled workforce.

(2) The opportunity to gain a postsecondary education also is important to the Nation as a means to help advance the American ideals of progress and equality.

(3) The Federal Government plays an invaluable role in making student financial aid available to ensure that qualified students can afford to attend college and meet their financial needs. The Pell Grant program in 1973, nearly 800,000 grants have helped low- and middle-income students to go to college, enrich their lives, and become productive members of society.

(4) Nationwide, almost 63 percent of secondary school graduates continue on to higher education immediately after completing secondary school. This degree of college participation would not exist without the Federal investment in student aid, especially the Pell Grant program. More than 4,000,000 low- and middle-income students receive Pell Grants; 95 percent of whom have a family income of no more than $40,000.

(5) In the next 10 years, the number of undergraduate students enrolled in the Nation’s colleges and universities will increase by 15 percent to more than 15,000,000 students. Many of these students will be the first in their families to attend college. The continued investment in the Pell Grant program is essential if college is to remain an achievable part of the American dream.

(6) Increasing the maximum Pell Grant to $5,100 would allow more than 430,000 additional students to benefit from the program. The additional cost of the expansion to $5,100 would result in 200,000 new Pell Grant recipients.
(8) Pell Grant recipients are more likely to graduate with student loan debt and to amass more debt than other student borrowers. Increasing the maximum Pell Grant to $5,100 might help remedy this disparity.

(b) Sense of the Senate.—It is the sense of the Senate that—
(1) the maximum Pell Grant should be increased to $5,100 during award year 2006–2007; and
(2) the maximum Pell Grant amount set by Congress should be the amount eligible students receive.

SEC. 903. ESTABLISHMENT OF A PELL DEMONSTRATION PROGRAM.
(a) Findings.—Congress finds that:
(1) the ability of low-income students to complete the students’ degree within 150 percent of the time expected to complete such degree.
(2) by encouraging persistence and degree acquisition in a timely manner, the Federal Government, in effect, saves money—
(A) by reducing the courses that do not lead to a degree; and
(B) by helping students get the financial benefits of a college degree as soon as possible.

(b) Pell Demonstration Program.—
(1) Authorization.—The Secretary of Education shall establish a demonstration program to facilitate the ability of low-income students to complete their degree at such institutions to expedite the student’s degree.

(2) Authorization of Appropriations.—There is authorized to be appropriated to carry out this subsection $500,000,000 for the period of fiscal years 2006 through 2008.

TITLE IX—TUITION FREE COLLEGE FOR MATHEMATICS, SCIENCE, AND SPECIAL EDUCATION TEACHERS

SEC. 901. PURPOSE.
It is the purpose of this title to make public colleges and universities in the field of mathematics, science, and special education teachers and to provide additional assistance to students eligible to receive a Federal Pell Grant under part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.) to enroll in courses in the summer at such institutions to expedite the student’s degree at such institutions.

SEC. 902. TUITION FREE COLLEGE FOR MATHEMATICS, SCIENCE, AND SPECIAL EDUCATION TEACHERS.
(a) Additional Amounts for Teachers in Mathematics, Science, and Special Education.—
(1) Pell Loans.—Section 438(b)(3) of the Higher Education Act of 1965 (20 U.S.C. 1078–10(c)(3)(A)) is amended by striking “$17,500” and inserting “$25,000”.

(b) Direct Loans.—Section 440(c)(3) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)) is amended by striking “$17,500” and inserting “$25,000”.

(c) Effective Date.—The amendments made by this section shall apply only with respect to eligible individuals who are new borrowers on or after October 1, 1998.

SEC. 903. OFFSET FOR TUITION FREE COLLEGE FOR MATHEMATICS, SCIENCE, AND SPECIAL EDUCATION TEACHERS.
(a) Special Allowances.—
(A) in clause (iv), by striking “or refunded after September 30, 2004, and before January 1, 2006,” and inserting “or refunded on or after the date of enactment of the Taxpayer-Teacher Protection Act of 2004;” and
(B) by striking clause (v) and inserting the following:
“(v) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (D); and
(i) the case may be, for loans—
(A) originated, transferred, or purchased on or after the date of enactment of the Taxpayer-Teacher Protection Act of 2004;
(B) financed by an obligation that has matured, retired, or defeased on or after the date of enactment of the Taxpayer-Teacher Protection Act of 2004;
(C) for which the maturity date of the obligation from which funds were obtained for such loans was extended on or after the date of enactment of the Taxpayer-Teacher Protection Act of 2004; and
(D) for which the maturity date of the obligation from which funds were obtained for such loans was extended on or after the date of enactment of the Taxpayer-Teacher Protection Act of 2004 or
(E) sold or transferred to any other holder on or after the date of enactment of the Taxpayer-Teacher Protection Act of 2004.”.

(b) Rule of Construction.—Nothing in the amendment made by paragraph (1) shall be construed to predetermine an agreement between the Federal Government and a student loan provider.

(c) Available Funds from Reduced Expenditures.—
(1) In General.—Any funds available to the Secretary of Education as a result of reduced expenditures under section 438 of the Higher Education Act of 1965 (20 U.S.C. 1078–1) secularized by the enactment of subsection (a) shall first be used by the Secretary for loan cancellation and loan forgiveness for teachers under sections 428a and 460 of the Higher Education Act of 1965 (20 U.S.C. 1078–10, 1078–107), as amended by section 902 of this Act.

(2) Remaining Funds.—
(A) In General.—Any such funds remaining after carrying out paragraph (1) shall be used by the Secretary of Education to make payments to each nonprofit lender in an amount that bears the same relation to the remaining funds as the amount the nonprofit lender receives under paragraph (1) bears to the total amount received by nonprofit lenders for fiscal year 2005 under such section.

(B) Definition of Nonprofit Lender.—In this paragraph the term “nonprofit lender” means an eligible lender (as defined in section 1070a(c)(5)(C) of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.)

(C) Modification of Allowance.—In the case of a loan made to a nonprofit lender, the amount of the special allowance determined under section 438(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1078–10(b)(2)(B)) bears to the applicable dollar limit for any taxable year as follows:

<table>
<thead>
<tr>
<th>Taxable Year</th>
<th>Applicable Dollar Limit</th>
</tr>
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<tbody>
<tr>
<td>2005 and 2006</td>
<td>$6,000</td>
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<tr>
<td>2007 and 2008</td>
<td>$8,000</td>
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<td>2009 and 2010</td>
<td>$10,000</td>
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<tr>
<td>2011 and thereafter</td>
<td>$12,000</td>
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</tbody>
</table>

(D) Limitation Based on Modified Adjusted Gross Income.—
(1) In General.—The amount of the special allowance determined under subparagraph (B) shall be subject to a limitation equal to the amount which would be subject to the limitation which would be so taken into account as—
(i) the excess of—
(A) the taxpayer’s modified adjusted gross income for such taxable year, over
(B) $65,500 ($130,000 in the case of a joint return), bears to
(ii) $5,000 ($10,000 in the case of a joint return).

(2) Modified Adjusted Gross Income.—
For purposes of this paragraph, the term “modified adjusted gross income” means the adjusted gross income of the taxpayer for the taxable year determined—
(iii) without regard to this section and section 438, 439, 911, 931, and 933.

(iv) after the application of sections 86, 135, 137, 219, 221, and 469.

For purposes of sections referred to in paragraph (iii), adjusted gross income shall be determined without regard to the deduction allowed under this section.

TITLE X—MAKING COLLEGE AFFORDABLE FOR ALL STUDENTS

SEC. 1001. EXPANSION OF DEDUCTION FOR HIGH EDUCATION EXPENSES.
(a) Amount of Deduction.—Section 222 of the Internal Revenue Code of 1986 (relating to deduction for qualified tuition and related expenses) is amended to read as follows:

“(b) Limitations.—

(1) Dollar Limitations.—

(A) In General.—The amount of the deduction allowed as a deduction under subsection (a) with respect to the taxpayer for any taxable year shall not exceed the applicable dollar limit.

(B) Applicable Dollar Limit.—The applicable dollar limit for any taxable year shall be determined as follows:

<table>
<thead>
<tr>
<th>Taxable Year</th>
<th>Applicable Dollar Limit</th>
</tr>
</thead>
<tbody>
<tr>
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<td>$10,000</td>
</tr>
<tr>
<td>2011 and thereafter</td>
<td>$12,000</td>
</tr>
</tbody>
</table>

(2) Limitation Based on Modified Adjusted Gross Income.—

(A) In General.—The amount which would (but for this paragraph) be taken into account under subsection (a) with respect to the taxpayer for any taxable year shall not exceed the applicable dollar limit.

(B) Amount of Reduction.—The amount determined under this subparagraph is the amount which would be taken into account as—

(i) the excess of—

(A) the taxpayer’s modified adjusted gross income for such taxable year, over

(B) $65,500 ($130,000 in the case of a joint return), bears to

(ii) $5,000 ($10,000 in the case of a joint return).

(C) Modified Adjusted Gross Income.—
For purposes of this paragraph, the term “modified adjusted gross income” means the adjusted gross income of the taxpayer for the taxable year determined—

(i) without regard to this section and section 438, 439, 911, 931, and 933.

(ii) after the application of sections 86, 135, 137, 219, 221, and 469.

For purposes of sections referred to in paragraph (iii), adjusted gross income shall be determined without regard to the deduction allowed under this section.

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“(D) INFLATION ADJUSTMENTS.—

(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2005, both of the dollars amounts in subparagraphs (A) and (B) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ’2004 for ’1992’.

(2) ROUNDING.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

(3) DEPENDENTS NOT ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to any individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year in which such individual’s taxable year begins.

(d) LIMIT ON PERIOD CREDIT ALLOWED.—A credit shall be allowed under this section only to the extent that the interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

(e) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED EDUCATION LOAN.—The term ‘qualified education loan’ has the meaning given such term by section 25A(g)(2).

(2) DEPENDENT.—The term ‘dependent’ has the meaning given such term by section 151(d)(2).

(3) SPECIAL RULES.—

(i) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year in which such individual’s taxable year begins.

(ii) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under this section only if the taxpayer and the taxpayer’s spouse file a joint return for the taxable year.

(iii) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 2004.

SEC. 1002. CREDIT FOR INTEREST ON HIGHER EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of chapter 1 of the Internal Revenue Code relating to deductible expenses (including non-deductible personal credits) is amended by inserting after section 25B the following new section:

SEC. 25C. INTEREST ON HIGHER EDUCATION LOANS.

(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter a deduction (imposed by this chapter for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

(b) MAXIMUM CREDIT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the credit allowed by subsection (a) for the taxable year shall not exceed $1,500.

(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

(A) IN GENERAL.—The modified adjusted gross income of the taxpayer for the taxable year shall be $50,000 ($100,000 in the case of a joint return), the amount which would (but for the allowable education credit under this section) be so allowable as excess bears to $20,000 ($40,000 in the case of a joint return).

(B) MODIFIED ADJUSTED GROSS INCOME.—The term ‘modified adjusted gross income’ means adjusted gross income determined without regard to sections 199, 222, 911, 931, and 933.

(c) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 2005, the $50,000 and $100,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ’2004 for ’1992’.

(d) Rounding.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

(e) DEPENDENTS NOT ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year in which such individual’s taxable year begins.

(f) LIMIT ON PERIOD CREDIT ALLOWED.—A credit shall be allowed under this section only to the extent that the interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

(g) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED EDUCATION LOAN.—The term ‘qualified education loan’ has the meaning given such term by section 25A(g)(2).

(2) DEPENDENT.—The term ‘dependent’ has the meaning given such term by section 151(d)(2).

(3) SPECIAL RULES.—

(i) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section to an individual if a deduction is taken into account for any amount paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

(ii) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under this section only if the taxpayer and the taxpayer’s spouse file a joint return for the taxable year.

(iii) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 2004.
will not rest until that goal is achieved.

The worsening crisis in health care is caused by skyrocketing costs, declining insurance coverage, and less security for every family. Businesses—especially small businesses—find it increasingly difficult to provide decent coverage for their employees. Companies struggling with foreign competition are at an every-larger competitive disadvantage because of their constantly rising health care costs.

Last year, the percentage of the Nation’s gross domestic product devoted to health was 15.5%, the highest in our history. Since 2000, annual spending on health care has risen from $1.3 trillion to $1.7 trillion, an increase of almost half a trillion dollars in just four years.

Even worse, insurance premiums have soared by 59 percent during those four years. The cost of insurance for a family has climbed by almost $3,500 in the past year, the cost of the premiums for family coverage averaged $10,000, and was much higher for many families.

Drug costs are also out of control. According to current data, they rose 47 percent in the past three years under the Bush Administration. Too many patients are cutting the pills their doctors prescribe in half or going without them altogether, because they can’t afford the drugs they need to treat or prevent disease.

Even Medicare premiums are out of control. The largest premium increase in Medicare’s history went into effect just three weeks ago. Since President Bush took office, Medicare beneficiaries have climbed by 72 percent. Senior citizens, with an average income of $15,000, now have to pay almost $1,000 a year for their Part B premiums under Medicare. The recent report of the Medicare trustees included the stunning revelation that Medicare cost sharing and premiums will soon eat up more than 40 percent of the total Social Security benefit of the typical 65 year old.

As a proportion of Gross Domestic Product spent on health care, America is first in the world by a large margin. We spend 30 percent more than the Swiss who are number two, a third more than the Germans, fifty percent more than the French and the Canadians, and seventy-eight percent more than the Japanese.

These extraordinarily high levels of health spending might be justified if they produced dramatically better health for American people. But they don’t. Among the world’s leading industrialized countries, the United States ranks 22nd in average life expectancy and 25th in infant mortality.

We also face a worsening crisis of the uninsured. Since President Bush took office, the number of uninsured Americans has increased by a shameful million a year. Today, 45 million Americans have no coverage. Between 2001 and 2004, five million jobs offering health insurance were lost.

Even these figures underestimate the problem. Over a two-year period, 82 million Americans—one out of every three non-elderly Americans—will be uninsured for a significant period of time.

Tragically, eight and a half million children are uninsured and may well be denied the opportunity for a healthy start in life that should be the birthright of every child. Even people who have health insurance today cannot count on it being there for them tomorrow. No American family is more than one employer decision away from being uninsured.

The uninsured are vulnerable not only to unaffordable costs, but to substandard or health care or no care at all. In any given year, one-third of the uninsured go without needed medical care. Two hundred seventy thousand children suffering from asthma never see a doctor. Three hundred fifty thousand children with recurrent earaches never see a doctor. Three hundred fifty thousand children with severe sore throats never see a doctor.

Twenty-seven thousand uninsured women are diagnosed with breast cancer each year. They are twice as likely as insured women to delay medical treatment until their cancer has spread too far, and they are 50 percent more likely to die of the disease.

Thirty-two thousand Americans with heart disease go without life-saving and life-enhancing bypass surgery or angioplasty—because they are uninsured.

The bottom line is that whether the disease is AIDS or mental illness or cancer or diabetes, patients are as likely to receive substandard care as they are to receive care meeting accepted professional standards.

The lack of coordination in our system results in duplicative, costly, and often counterproductive tests and procedures. The Midwest Business Group on Health estimates that the cost of poor quality care to employers providing health insurance coverage is $2,000 per worker, and it’s paid in the form of higher insurance premiums. A recent study found that for many serious illnesses, patients are as likely to receive substandard care as they are to receive care meeting accepted professional standards.

In the face of this massive crisis in health care, the Administration and Congress have been missing in action for too long. The Bush Administration and the Republican leadership in Congress defend the special interests that profit from the status quo and ignore the suffering of the millions of families victimized by their neglect.

Reports suggest in fact that the Administration’s new budget will propose to cut Medicaid, which provides health care for more than 50 million of the poorest of the poor. The deficit must be addressed—but it was created by the Administration’s tax breaks for the wealthiest, and the sick should not have to bear the burden of reducing it. That’s the wrong priority and the wrong values.

The legislation we are offering today will not solve all these problems, but it is a good start, and we are committed to finishing the job.

The Affordable Health Care Act guarantees that every child in America will have quality health care coverage.

It reduces health costs substantially, by making FDA-approved drugs available at the same fair prices available to Canadians and Europeans, rather than the inflated prices charged to U.S. patients.

It takes a giant step toward adoption of modern information technology in health care, which has the potential to dramatically improve the quality of care and dramatically reduce its cost—by as much as $140 billion a year. It also improves quality by giving the FDA additional authority to monitor the safety of approved drugs.

It addresses the special burden faced by small businesses by offering tax credits to reduce the premiums they pay to cover their employees. It also establishes a demonstration program in 25 cities to see if a successful program in Michigan to expand insurance coverage for small businesses can be replicated elsewhere. Finally, our bill includes a sense of the Senate resolution to put Congress firmly on record against destructive cuts in Medicaid.

Affordable health care is a high priority for every family, and it should be an equally high priority for this Congress. We face a crisis, and it is time to act. Senate Democrats are committed to guaranteeing the basic right to health care for all Americans, and when we say “all”, we mean “all”.

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:

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE. —This Act may be cited as the “Affordable Health Care Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—MAKING PRESCRIPTION DRUGS MORE SAFE AND AFFORDABLE

Subtitle A—Access to Prescription Drugs

Sec. 101. Findings.

Sec. 102. Repeal of certain section regarding importation of prescription drugs.

Sec. 103. Importation of prescription drugs; waiver of certain import restrictions.
Sec. 356. State option to extend the
Sec. 355. State option to provide family
Sec. 353. Promoting cessation of tobacco use
Sec. 351. State option to expand or add cov-
Sec. 354. Innovative outreach programs.
Subtitle C—Affirming the Importance of
Medicaid
Sec. 361. Sense of the Senate.

TITLE IV—REDUCING HEALTH CARE
COSTS FOR SMALL EMPLOYERS

Subtitle A—Tax Relief
Sec. 301. State option to receive 100 percent
State health care and data collection.

TITILE III—MAKING PRESCRIPTION DRUGS
MORE SAFE AND AFFORDABLE

Subtitle A—Access to Prescription Drugs

SEC. 101. FINDINGS.
Congress finds that—

(1) Americans unjustly pay up to 5 times
more to fill their prescriptions than con-
sumers in other countries;

(2) the United States is the largest mar-
ket for pharmaceuticals in the world, yet
American consumers pay the highest prices
for brand pharmaceuticals in the world;

(3) a prescription drug is neither safe nor
effective to an individual who cannot afford
it;

(4) allowing and structuring the importa-
tion of prescription drugs to ensure access
to safe and affordable drugs approved by
the Food and Drug Administration will pro-
vide a level of safety to American consumers
that they do not currently enjoy;

(5) American seniors alone will spend
$1,000,000,000,000 on pharmaceuticals over
the next 10 years; and

(6) allowing open pharmaceutical markets
could save American consumers at least
$50,000,000,000,000


SEC. 102. REPEAL OF CERTAIN SECTION REGARD-
ING IMPORTATION OF PRESCRIP-
TION DRUGS.
Chapter VIII of the Federal Food, Drug,
and Cosmetic Act (21 U.S.C. 381 et seq.) is
amended by striking section 804.

SEC. 103. IMPORTATION OF PRESCRIP-
TION DRUGS; WAIVER OF CERTAIN IM-
PORT RESTRICTIONS.
(a) IN GENERAL.—Chapter VIII of the Fed-
eral Food, Drug, and Cosmetic Act (21 U.S.C.
et seq.), as amended by section 102, is fur-
ther amended by inserting after section 803
the following:

"SEC. 804. COMMERCIAL AND PERSONAL IMPOR-
TATION OF PRESCRIPTION DRUGS.—

"(a) IMPORTATION OF PRESCRIPTION
DRUGS.—

"(1) IN GENERAL.—The Secretary shall in
accordance with this section provide by regu-
lation that, in the case of qualifying drugs
imported or offered for import into the Unit-
ed States from registered importers or
by registered importers:

"(A) the limitation on importation that is
established in section 801(d)(1) is waived;

"(B) the standards referred to in section
801(a) regarding admission of the drugs are
subject to subsection (g) of this section (in-
cluding with respect to qualifying drugs to
which section 801(d)(1) does not apply).

"(2) IMPORTED QUALIFYING DRUGS
may not be imported under paragraph (1) un-
less—

"(A) the drug is imported by a pharmacy
or a wholesaler that is a registered importer;
or

"(B) the drug is imported by an individual
for personal use or for the use of a family
member of the individual (not for resale)
from a registered importer.

"(3) RULE OF CONSTRUCTION.—This section
shall apply only with respect to a drug that
is imported or offered for import into the
United States—

"(A) by a registered importer; or

"(B) from a registered exporter to an indi-
vidual.

"(4) DEFINITIONS.—

"(A) REGISTERED EXPORTER; REGISTERED IM-
PORTER.—For purposes of this section:

"(i) The term ‘registered exporter’ means
an exporter for which a registration under
subsection (b) has been approved and is in ef-
fect;

"(ii) The term ‘registered importer’ means
a pharmacy, group of pharmacies, or a
wholesaler for which a registration under
subsection (b) has been approved and is in ef-
fect;

"(iii) The term ‘registration condition’ means
a condition that must exist for a reg-
istration under subsection (b) to be ap-
proved.

"(B) QUALIFYING DRUG.—For purposes of
this section, the term ‘qualifying drug’ means
a prescription drug, other than any of the
following:

"(i) A controlled substance, as defined in
section 102 of the Controlled Substances

"(ii) A biological product, as defined in
section 351 of the Public Health Service Act
(42 U.S.C. 262).

"(iii) An infusion drug, including a per-
tinal dialysis solution.

"(iv) An intravenously injected drug.

"(v) A drug that is inhaled during surgery.

"(C) OTHER DEFINITIONS.—For purposes of
this section:

"(i) The term ‘exporter’ means a person
that is in the business of exporting a drug
from Canada to individuals in the United
States or that, pursuant to submitting a reg-
istration under subsection (b), seeks to be in
such business.

"(ii) The term ‘importer’ means a phar-
acy, group of pharmacies, or a wholesaler
that is in the business of importing a drug
into the United States or that, pursuant to
submitting a registration under subsection
(b), seeks to be in such business.

"(iii) The term ‘pharmacist’ means a per-
son licensed by a State to practice phar-
macy, including the dispensing and selling
of prescription drugs.

"(iv) The term ‘pharmacy’ means a person
that—

"(I) is licensed by a State to engage in the
business of selling prescription drugs at
retail; and

"(II) employs 1 or more pharmacists.

"(v) The term ‘prescription drug’ means a
drug that is described in section 503(b)(1);

"(vi) The term ‘ wholesaler’—

"(I) means a person licensed as a whole-

salen or distributor of prescription drugs
in the United States under section 503(b)(1); and

"(II) does not include a person authorized
by the Secretary to fill prescription drugs
in the United States under section 503(b)(1).

"(D) PERMITTED COUNTRY.—The term ‘per-
mitted country’ means—

"(i) Australia;

"(ii) Canada;

"(iii) a member country of the European
Union as of January 1, 2003;

"(iv) Japan;

"(v) New Zealand; and

"(vi) Switzerland.

"(b) REGISTRATION OF IMPORTERS AND EX-
PORTERS.—A registration condition is that
the importer or exporter involved (referred to
in this subsection as a ‘registrant’) sub-
mits to the Secretary a registration con-
taining the following:

"(A) The name of the registrant and an
identification of all places of business of the
registrant that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the registrant.

“(B) Such information as the Secretary determines to be necessary to demonstrate that the registrant is in compliance with registration conditions under paragraphs (c) through (e), or any registration condition referred to in section 801(a); and maintenance of records and samples; or

“(ii) the expiration of an exporter, subsections (c), (d), (f), (g), (h), (i), and (j) (relating to the sources of exported drugs; the inspection of facilities of the exporter; the payment of fees; compliance with the standards referred to in section 801(a); and maintenance of records and samples).

“(C) An agreement by the registrant that the registrant will not under subsection (a) import or export any drug that is not a qualifying drug.

“(D) An agreement by the registrant to—

“(i) notify the Secretary of a recall or withdrawal of a drug distributed in a permitted country that the registrant has exported or imported, or intends to export or import, to the United States under subsection (a) or (b); and

“(ii) provide for the return to the registrant of such drug; and

“(iii) cease, or not begin, the exportation or importation of such drug unless the Secretary has notified the registrant that exportation or importation of such drug may proceed.

“(E) An agreement by the registrant to ensure and monitor compliance with each registration condition, to promptly correct any noncompliance with such a condition, and to promptly report to the Secretary any such noncompliance.

“(F) A plan describing the manner in which the registrant will comply with the agreement under subparagraph (E).

“(G) An agreement by the registrant to enforce a contract under subsection (c)(3)(B) against the chain of custody of any drug that has been imported or exported by a person acting on behalf of the registrant.

“(H) An agreement by the registrant to notify the Secretary of—

“(i) any change that the registrant intends to make in the compliance plan under subparagraph (F); and

“(ii) any change that the registrant intends to make in the compliance plan under subparagraph (F).

“(I) In the case of an exporter—

“(i) An agreement by the exporter that a qualifying drug will not under subsection (a) be exported to the United States if, after opportunity for an informal hearing, the Secretary determines that the exporter has exported a drug to the United States that is not a qualifying drug or that is not in compliance with subsections (g) or (i), that is equal in value to the lesser of—

“(I) the value of drugs exported by the exporter during the period the drug was manufactured for distribution in 1 or more of the permitted countries; and

“(II) $1,000,000.

“(J) Other provisions as the Secretary may require to protect the public health while permitting—

“(I) the importation by pharmacies, groups of pharmacies, wholesalers as registered importers of qualifying drugs under subsection (a); and

“(II) importation by individuals of qualifying drugs under subsection (a).

“(2) APPROVAL OR DISAPPROVAL OF REGISTRATION.

“(A) IN GENERAL.—Not later than 90 days after the date on which a registrant submits to the Secretary a registration under paragraph (1), the Secretary shall notify the registrant if the registration is approved or is disapproved. The Secretary shall disapprove a registration if there is reasonable cause to believe that the registrant has not complied with one or more registration conditions, and shall notify the registrant of such reason. In the case of a disapproved registration, the Secretary shall immediately suspend the registration if the registrant is in compliance with such conditions.

“(B) CHANGES IN REGISTRATION INFORMATION.—Not later than 30 days after receiving a notice under paragraph (1)(G) from a registrant, the Secretary shall determine whether the change involved affects the approval of the registration of the registrant under paragraph (1), and shall inform the registrant of the determination.

“(3) PUBLICATION OF CONTACT INFORMATION FOR REGISTERED EXPORTERS.—Through the Internet website of the Food and Drug Administration, make readily available to the public a list of registered exporters, including contact information for the exporters. Promptly after the approval of a registration submitted under paragraph (1), the Secretary shall update the Internet website accordingly.

“(4) SUSPENSION AND TERMINATION.

“(A) SUSPENSION.—With respect to the effectiveness of a registration submitted under paragraph (1)—

“(i) Subject to clause (ii), if the Secretary determines, after notice and opportunity for a hearing, that the registrant has failed to maintain substantial compliance with all registration conditions, the Secretary may suspend the registration.

“(ii) The Secretary determines that, under color of the registration, the exporter has imported a drug that is not a qualifying drug, or a drug that does not meet the criteria established under section 510(f) or (m), or has imported a qualifying drug to an individual in violation of subsection (i)(1)(F), the Secretary shall immediately suspend the registration. A suspension of registration is not subject to the provision by the Secretary of prior notice, and the Secretary shall provide to the registrant an opportunity for a hearing not later than 10 days after the date on which the registration is suspended.

“(B) TERMINATION.—The Secretary, after notice and opportunity for a hearing, may terminate the registration under paragraph (1) of a registrant if the Secretary determines that the registrant has engaged in a pattern or practice of violating 1 or more registration conditions, or if on 1 or more occasions the Secretary has under subsection (A) or (F) suspended or revoked the registration of the registrant. The Secretary may make the termination permanent, or for a fixed period of not less than 1 year. During the period in which the registration is terminated, any registration submitted under paragraph (1) by the registrant, or a person that is a partener in the export or import enterprise, or a principal officer in such enterprise, and any registration prepared with the assistance of the registrant or such a person, has no legal effect under this section.

“(c) SOURCES OF QUALIFYING DRUGS.—A registration condition is that the exporter or importer involved agrees that a qualifying drug will under subsection (a) be exported or imported to the United States only if there is compliance with the following:

“(1) The drug was manufactured in an establishment—

“(A) required to register under subsection (b) of section 510;

“(B) inspected by the Secretary as provided by this section.

“(2) The establishment is located in the United States or in any foreign country, and the establishment manufactured the drug for distribution in the United States or for distribution in 1 or more of the permitted countries (without regard to whether in addition the drug was manufactured for distribution in a foreign country that is not a permitted country).

“(3) The exporter or importer obtained the drug—

“(A) directly from the establishment; or

“(B) directly from an entity that, by contract, the exporter or importer involved agrees that—

“(i) provides to the exporter or importer a statement (in such form and containing such information as the Secretary may require) that the chain of custody from the establishment, identifies each prior sale, purchase, or trade of the drug (including the date of the transaction and the names and addresses of all parties involved); and

“(ii) agrees to permit the Secretary to inspect warehouses and other facilities of the entity for purposes of determining whether the facilities are in compliance with any standards under this Act that are applicable to facilities of that type in the United States; and

“(B) has ensured, through such contractual relationships as may be necessary, that the Secretary has the same authority regarding other parties in the chain of custody for the establishment; and the Secretary has established the same authority for purposes of determining whether the registrant has demonstrated that further violations of registration conditions will not occur.

“(B) TERMINATION.—The Secretary, after notice and opportunity for a hearing, may terminate the registration under paragraph (1) of a registrant if the Secretary determines that the registrant has engaged in a pattern or practice of violating 1 or more registration conditions, or if on 1 or more occasions the Secretary has under subparagraph (F) suspended the registration of the registrant. The Secretary may make the termination permanent, or for a fixed period of not less than 1 year. During the period in which the registration is terminated, any registration submitted under paragraph (1) by the registrant, or a person that is a part
“(1) records of the exporter that relate to the
export of such drugs, including financial records; and
“(2) samples of such drugs;
“(3) performed the duties described in parag-
raph (3); and
“(4) to carry out any other functions de-
termined by the Secretary to be necessary regard-
ing the compliance of the exporter, and
“(B) the Secretary has assigned 1 or more em-
ployees of the Secretary to carry out the func-
tions described in this subsection for the Sec-
retary not less than every 3 weeks on the pre-
misses of places of businesses referred to in
subsection (A)(i), and such an assign-
ment remains in effect on a continuous basis.
“(2) MARKING OF COMPLIANT SHIPMENTS.—A reg-
istration condition is that the exporter
involved agrees to affix to each shipping con-
tainer of qualifying drugs exported under
subsection (a) such markings as the Sec-
retary determines to be necessary to identify
the shipment as being in compliance with all
registration conditions. Markings under the
preceding sentence—
“(A) are designed to prevent affixation of
the markings to any shipping container
that is not authorized to bear the markings;
and
“(B) may include anticounterfeiting or
track-and-trace technologies.
“(3) CERTAIN DUTIES RELATING TO EXPORT-
ERS.—With respect to all registered exporters
under this section—
“(A) Verifying the chain of custody of a
statistically significant sample of qualifying
drugs from the establishment in which the
drug was manufactured to the exporter,
which may be accomplished by the use of
anticounterfeiting or track-and-trace tech-
nologies, if available.
“(B) Randomly reviewing records of ex-
ports to individuals for the purpose of deter-
mining whether the drugs are being imported
by the individuals in accordance with the
conditions under subsection (i). Such reviews
shall be conducted in a manner that will re-
sult in a statistically significant determina-
tion of compliance with all such conditions.
“(C) Monitoring the affixing of markings
under paragraph (2).
“(D) Inspect as the Secretary determines is
necessary by warehouses and other facilities
of other parties in the chain of custody of
qualifying drugs.
“(E) Determine whether the exporter is in
compliance with all other registration condi-
tions.
“(F) CERTAIN DUTIES RELATING TO IMPORT-
ERS.—Duties of the Secretary with respect to
an importer include the following:
“(A) as authorized under section 704, in-
pect not less than every 3 weeks, the places
of business of importers or the employers that relate to the
receipt and distribution of a qualifying drug,
including each warehouse or other facility
owned or controlled by, or operated for, the
importer at which qualifying drugs are re-
ceived or from which they are distributed to
pharmacies.
“(B) During the inspections under subpara-
graph (A), verify the chain of custody of a
statistically significant sample of qualifying
drugs from the establishment in which the
drug was manufactured to the importer,
which may be accomplished by the use of
anticounterfeiting or track-and-trace tech-
nologies, if available.
“(C) Inspect as the Secretary determines is
necessary by warehouses and other facilities
of other parties in the chain of custody of
qualifying drugs.
“(D) Determine whether the importer is in
compliance with all other registration condi-
tions.
“(E) Importer Fees.—
“(1) Registration Fee.—A registration
condition is that the importer paid to
the Secretary a fee of $10,000 due on the
date on which the importer first submits the
registration to the Secretary under sub-
section (b).
“(2) Inspection Fee.—A registration condi-
tion is that the importer paid to the
Secretary a fee of $10,000 due on the
first date on a semiannual basis, with the
first fee due on the date that is 6 months after
the date on which the registration of the
importer under subsection (b) is first
approved by the Secretary.
“(3) Amount of Inspection Fee.—
“(A) Aggregate Total of Fees.—The Sec-
retary shall determine the total qual-
ing drug was manufactured to the exporter,
that manufactures the drug proposed for ex-
port or import; and
“(iii) determining the compliance of
importers with regulations.
“(B) Limitation.—The aggregate total of
fees collected under paragraph (2) shall not
exceed 1 percent of the total price of drugs
imported annually to the United States by
registered exporters under this section.
“(C) Individual Importer Fee.—The Sec-
retary shall annually adjust the fees under para-
graph (2) to ensure that the fees accurately
reflect the actual costs referred to in sub-
paragraph (A) and do not exceed, in the ag-
gregate, 1 percent of the total price of drugs
imported annually to the United States under
this section.
“(D) Use of Fees.—Subject to appropria-
tions Acts, fees collected by the Secretary
under paragraphs (1) and (2) are only avail-
able to the Secretary and are for the sole
purpose of paying the costs referred to in
paragraph (A).
“(g) Compliance With Section 801(a).—
“(1) In General.—A registration condition
is that each qualifying drug exported under
subsection (a) by the registered importer
involved is in compliance with subsection (b).
“(2) Limitation.—The aggregate total of
fees collected under paragraph (2) shall not
exceed 1 percent of the total price of drugs
imported annually to the United States by
registered exporters under this section.
“(3) Use of Fees.—Subject to appropria-
tions Acts, fees collected by the Secretary
under paragraph (2) are only available to the
Secretary and are for the sole purpose of paying the costs referred to in
paragraph (A).
“(h) Use of Fees.—Subject to appropria-
tions Acts, fees collected by the Secretary
under paragraphs (1) and (2) are only avail-
able to the Secretary and are for the sole
purpose of paying the costs referred to in
paragraph (A).
“(i) Notice by Manufacturer; General
Provisions.—
“(1) In General.—The person that manu-
factures a drug that may be imported under
subsection (a) shall in accordance with this
paragraph submit to the Secretary a notice
that—
“(A) includes each difference in the drug
from a condition established in the approved
application for the U.S. label drug beyond the
variations provided for in the applica-
tion, any difference in labeling, the date on
which the drug with such difference was, or
will be, introduced for commercial distribu-
tion in a permitted country, and such addi-
tional information as the Secretary may
require; or
“(ii) states that there is no difference in the
drug from a condition established in the
approved application for the U.S. label drug
beyond the variations provided for in the applica-
tion, any difference in labeling, the date on
which the drug with such difference was, or
will be, introduced for commercial distribu-
tion in a permitted country, and such addi-
tional information as the Secretary may
require; or
“(ii) states that there is no difference in the
drug from a condition established in the
approved application for the U.S. label drug
beyond the variations provided for in the applica-
tion, any difference in labeling, the date on
which the drug with such difference was, or
will be, introduced for commercial distribu-
tion in a permitted country, and such addi-
tional information as the Secretary may
require; or
“(ii) states that there is no difference in the
drug from a condition established in the
approved application for the U.S. label drug
beyond the variations provided for in the applica-
tion, any difference in labeling, the date on
which the drug with such difference was, or
will be, introduced for commercial distribu-
tion in a permitted country, and such addi-
tional information as the Secretary may
require; or
“(ii) states that there is no difference in the
drug from a condition established in the
approved application for the U.S. label drug
beyond the variations provided for in the applica-
tion, any difference in labeling, the date on
which the drug with such difference was, or
will be, introduced for commercial distribu-
tion in a permitted country, and such addi-
tional information as the Secretary may
require; or
“(ii) states that there is no difference in the
drug from a condition established in the
approved application for the U.S. label drug
beyond the variations provided for in the applica-
tion, any difference in labeling, the date on
which the drug with such difference was, or
will be, introduced for commercial distribu-
tion in a permitted country, and such addi-
tional information as the Secretary may
require; or
“(ii) states that there is no difference in the
drug from a condition established in the
approved application for the U.S. label drug
beyond the variations provided for in the applica-
tion, any difference in labeling, the date on
which the drug with such difference was, or
will be, introduced for commercial distribu-
tion in a permitted country, and such addi-
tional information as the Secretary may
require; or
“(ii) states that there is no difference in the
drug from a condition established in the
approved application for the U.S. label drug
beyond the variations provided for in the applica-
tion, any difference in labeling, the date on
which the drug with such difference was, or
will be, introduced for commercial distribu-
tion in a permitted country, and such addi-
tional information as the Secretary may
require; or
“(ii) states that there is no difference in the
drug from a condition established in the
approved application for the U.S. label drug
beyond the variations provided for in the applica-
tion, any difference in labeling, the date on
which the drug with such difference was, or
will be, introduced for commercial distribu-
tion in a permitted country, and such addi-
tional information as the Secretary may
require; or
“(ii) states that there is no difference in the
drug from a condition established in the
approved application for the U.S. label drug
beyond the variations provided for in the applica-
tion, any difference in labeling, the date on
which the drug with such difference was, or
will be, introduced for commercial distribu-
tion in a permitted country, and such addi-
tional information as the Secretary may
require; or
“(ii) states that there is no difference in the
drug from a condition established in the
approved application for the U.S. label drug
beyond the variations provided for in the applica-
tion, any difference in labeling, the date on
which the drug with such difference was, or
will be, introduced for commercial distribu-
tion in a permitted country, and such addi-
tional information as the Secretary may
require; or
“(ii) states that there is no difference in the
drug from a condition established in the
approved application for the U.S. label drug
beyond the variations provided for in the applica-
tion, any difference in labeling, the date on
which the drug with such difference was, or
will be, introduced for commercial distribu-
tion in a permitted country, and such addi-
tional information as the Secretary may
require; or
“(ii) states that there is no difference in the
drug from a condition established in the
approved application for the U.S. label drug
beyond the variations provided for in the applica-
tion, any difference in labeling, the date on
which the drug with such difference was, or
will be, introduced for commercial distribu-
tion in a permitted country, and such addi-
tional information as the Secretary may
require; or
“(ii) states that there is no difference in the
drug from a condition established in the
approved application for the U.S. label drug
beyond the variations provided for in the applica-

approved the drug for commercial distribution, or with respect to which such approval is sought, include the following:

(I) Information demonstrating that the person submitting the notice is the manufacturer involved, or, if the notification is submitted by the government of the permitted country in writing that the person is submitting the notice to the Secretary a notice under clause (i), which includes the determination, whether a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

(ii) If the Secretary determines that such a supplemental application before the difference could be made to the U.S. label drug would not be approved, the Secretary shall—

(l) order that the importation of the drug involved cease; and

(ii) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the Assistant Attorney General of the determination.

(c) NOTICE; DRUG DIFFERENCE NOT REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (C)(i) that includes a difference that would, under section 506A(c) or (d)(3)(B)(ii), require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

(II) A notice under clause (i) includes a difference that would, under section 506A, require the submission of a supplemental application if made as a change to the U.S. label drug, the person that submits the notice shall pay to the Secretary a fee in the same amount as would apply if the person were paying a fee pursuant to section 506A(c) or (d)(3)(B)(ii), subject to appropriations Acts, fees collected by the Secretary under the preceding sentence are available only to the Secretary and are for the sole purpose of paying the costs of reviewing notices submitted under clause (i).

(v) TIMING OF SUBMISSION OF NOTICES.—(I) PRIOR APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (D) applies shall be submitted to the Secretary not later than 120 days before the drug with the difference is introduced for commercial distribution in a permitted country.

(ii) OTHER NOTICES.—A notice under clause (i) to which subparagraph (F) applies shall be submitted to the Secretary not later than 120 days after the drug with the difference is introduced for commercial distribution in a permitted country annually thereafter.

(6) REVIEW BY SECRETARY.—(I) IN GENERAL.—In this paragraph, the difference in a drug that may be imported under subsection (a) from the U.S. label drug shall be treated by the Secretary as if it was manufactured, such inspection shall be authorized by section 704.

(II) PUBLICATION OF INFORMATION ON NOTICES.—(I) IN GENERAL.—Through the Internet website of the Food and Drug Administration, the Secretary shall readily make available to the public a list of notices submitted under clause (i) of this subsection.

(II) CONTENTS.—The list under subsection (I) shall include the date on which a notice is submitted and whether

(III) UPDATE.—The Secretary shall promptly update the Internet website with any changes to the list.

(II) NOTICE; DRUG DIFFERENCE NOT REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (C)(i) that includes a difference that would, under section 506A(c) or (d)(3)(B)(ii), require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

(II) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the Assistant Attorney General of the determination.

(4) NOTICE; DRUG DIFFERENCE NOT REQUIRING PRIOR APPROVAL; NO DIFFERENCE.—In the case of a notice under subparagraph (C)(ii) that includes a difference for which, under section 506A(d)(1)(A), a supplemental application before the difference could be made to the U.S. label drug, or that states that there is no difference for the permitted country—

(i) may not order that the importation of the drug involved cease; and

(ii) shall promptly notify registered exporters and registered importers.

(5) NOTICES OF DIFFERENCES IN INGREDIENT, ROUTE OF ADMINISTRATION, DOSAGE FORM, OR STRENGTH.—(I) IN GENERAL.—A person who manufactures a U.S. label drug shall submit an application under section 505(b) for a drug that is manufactured for distribution in a permitted country for purposes of obtaining approval for commercial distribution in a permitted country.

(ii) each active ingredient of the drug is related to an active ingredient of the U.S. label drug, as defined in clause (v).

(iii) APPLICATION UNDER SECTION 505(b).—The Secretary may issue an order under section 505(b) required under clause (i) shall—

(iv) If the Secretary has not made a determination whether a supplemental application for a U.S. label drug would be approved or disapproved by the date on which the drug involved is to be introduced for commercial distribution in a permitted country, the Secretary shall—

(v) Timing of Submission of Notices.

(a) A notice under section 506A(e) required under clause (i) includes a difference that would, under section 506A(c) or (d)(3)(B)(ii), require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

(b) the Secretary has ordered that importation of the drug from a permitted country cease; or

(c) the information that the person submitted to the government of the permitted country for purposes of obtaining approval for commercial distribution of the drug involved in the notice, the Secretary shall readily make available to the public a list of notices submitted under clause (i) of this subsection.

(III) PUBLICATION OF INFORMATION ON NOTICES.

(A) IMPORTATION BY REGISTERED IMPORTER.—(I) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered importer, such drug

(2) SECTION 502; LABELING.

(A) Importation by registered importer.

(3) SECTION 502; LABELING.
shall be considered to be in compliance with section 502 if the drug bears—

"(1) a copy of the labeling approved for the drug under section 506, without regard to whether the copy bears the trademark involved;

"(II) the name of the manufacturer and location of the manufacturer; and

"(IV) the name, location, and registration number of the importer.

"(ii) REGISTRATION COPY OF THE LABELING.—The Secretary shall provide such copy to the registered importer involved, upon request of the importer.

"(B) IMPORTATION BY INDIVIDUAL.—In the case of a qualifying drug that is imported or offered for import by a registered exporter to an individual, there shall be considered to be in compliance with section 502 if the drug bears a label providing the directions for use by the consumer, and bears a copy of any special labeling that would be required by the Secretary had the drug been dispensed by a pharmacist in the United States, without regard to whether the special labeling bears a trademark involved. The Secretary shall provide to the registered exporter involved a copy of the special labeling, upon request of the exporter."

"(A) IN GENERAL.—For purposes of administrative and judicial procedure, there is a presumption that a drug imported or offered for export or import under subsection (a) is in compliance with section 501 if the drug is in compliance with subsection (c).

"(B) STANDARDS FOR REFUSING ADMISSION.—

"(1) the drug is accompanied by a copy of the labeling of the equivalent document in Canada, have been filed; and

"(2) to prevent a duplicative filing by another pharmacist.

"(D) the individual has provided to the registered exporter a complete list of all drugs used by the individual for review by the individuals who dispense the drug.

"(E) THE QUANTITY OF THE DRUG

"(F) THE DRUG IS ACCOMPANIED BY A COPY OF THE DOCUMENTATION THAT WAS REQUIRED UNDER THE LAW OR REGULATIONS OF CANADA AS A CONDITION OF DISPENSING THE DRUG TO THE INDIVIDUAL.

"(G) THE COPIES REFERRED TO IN SUBPARA

"(H) A PERSON THAT MANUFACTURERED, MANUFACTURING PROCESSING PACKING OR HOLDING OF THE DRUG DO NOT CONFORM TO GOOD MANUFACTURING PRACTICE.

"(I) THE MANUFACTURER OF THE DRUG HAS INSTITUTED A RECALL OF THE DRUG.

"(J) THE DRUG IS EXPORTED FROM A REGISTERED EXPORTER TO AN INDIVIDUAL WHOSE RECEIPTS SHOW THAT THE DRUG HAS BEEN DISPENSED SAFELY THE QUALIFYING DRUGS EXPORTED BY THE EXPORTER TO INDIVIDUALS, AND THE EXPORTER ASSIGNS TO THOSE PERSONS RESPONSIBILITY FOR DISPENSING SUCH QUALIFYING DRUGS TO INDIVIDUALS.

"(II) INDIVIDUALS; CONDITIONS FOR IMPORTATION OF DRUGS.—

"(I) IN GENERAL.—For purposes of subsection (a)(2)(B), the importation of a qualifying drug by an individual is in accordance with this subsection if the following conditions are met:

"(A) the drug is accompanied by a copy of a prescription for the drug, which prescription—

"(1) is valid under applicable Federal and State laws and

"(2) was issued by a practitioner who, under the laws of the State in which the individual is a resident, or in which the individual resides, or in which the individual receives care from the practitioner, issues the prescription, is authorized to administer prescription drugs.

"(B) the drug is accompanied by a copy of the documentation that was required under the law or regulations of Canada as a condition of dispensing the drug to the individual.

"(C) the copies referred to in subparagraph (A)(1) and (B) are marked in a manner sufficient—

"(1) to indicate that the prescription, and the equivalent document in Canada, have been filled; and

"(2) to prevent a duplicative filing by another pharmacist.

"(D) the individual has provided to the registered exporter a complete list of all drugs used by the individual for review by the individuals who dispense the drug.

"(E) the quantity of the drug does not exceed a 90-day supply.

"(F) the drug is not an ineligible subpart H drug. For purposes of this section a prescription drug is an ‘ineligible subpart H drug’ if the drug was approved by the Secretary under part 3 of title 21, Code of Federal Regulations (relating to accelerated approval), with restrictions under section 520 of such part to assure safe use, and the Secretary has published in the Federal Register a notice that the Secretary has determined that good cause exists to prohibit the drug from being imported pursuant to this subsection.

"(G) THE REGISTRATION OF DRUG REFUSED ADMISSION.—If a registered exporter ships a drug to an individual pursuant to subsection (a)(2)(B) and the drug is refused admission to the United States, the drug shall be sent to the individual and to the exporter that informs the individual and the exporter of such refusal and the reason for the refusal.

"(H) MANUFACTURERS; INELIGIBLE SUBPAR

"(I) OTHER PROVISIONS OF THE INTERIM RULE, TO THE EXTENT THAT SUCH PROVISIONS ARE NOT MODIFIED.

"(II) EFFECT OF RULES.—The rules promulgated under this section shall not apply to the importation of prescription drugs—

"(I) EFFECT OF RULES.—The rules promulgated under this section shall not apply to the importation of prescription drugs—

"(I) FROM CANADA BY REGISTERED IMPORTERS ON THE DATE THAT IS 1 YEAR AFTER THE DATE OF THE PROMULGATION OF THE INTERIM RULE; AND

"(II) FROM AUSTRALIA, A MEMBER COUNTRY OF THE EUROPEAN UNION, OR A MEMBER COUNTRY OF THE EUROPEAN UNION THAT IS A PART OF A QUALIFYING DRUG THAT UNDER SECTION 804(A)(2)(B) WAS IMPORTED BY THE INDIVIDUAL.

"(II) CERTAIN EXPORTERS.—The interim rule under subparagraph (A) shall provide that, in the review of registrations submitted under subsection (b) of section 804 referred to in such subparagraph, registrations submitted by entities in Canada that are significant exporters of prescription drugs to individuals in the United States as of the date of the enactment of this Act will have priority during the period in which the interim rule
under subparagraph (A) is in effect. During such period, the reference in subsection (b)(2)(A) of such section 804 to 90 days (relating to approval or disapproval of registrations) is applied to such entities, deemed to be 30 days.

(C) DRUGS FOR IMPORT FROM CANADA.—The notices with respect to drugs to be imported from Canada that are required under subsection (g)(2)(C)(i) of such section 804 and that require approval under subsection (g)(2)(D) or (E) of such section 804 shall be submitted to the Secretary not later than 90 days after the date of enactment of this Act. The notices with respect to drugs to be imported from Canada that are required under subsection (g)(2)(C)(ii) of such section 804 and that do not require approval under subsection (g)(2)(D) or (E) of such section 804 shall be submitted to the Secretary not later than 30 days after the date of enactment of this Act.

(D) DRUGS FOR IMPORT FROM OTHER COUNTRIES.—The notices with respect to drugs to be imported from Australia, a member country of the European Union as of January 1, 2003, Japan, New Zealand, or Switzerland that are required under subsection (g)(2)(C)(i) of such section 804 and that require approval under subsection (g)(2)(D) or (E) of such section 804 shall be submitted to the Secretary not later than 180 days after the date of enactment of this Act. The notices with respect to drugs to be imported from such countries that are required under subsection (g)(2)(C)(ii) of such section 804 and that do not require approval under subsection (g)(2)(D) or (E) of such section 804 shall be submitted to the Secretary not later than 270 days after the date of enactment of this Act.

(2) PERSONAL IMPORTATION FROM CANADA.—Until the expiration of the 60-day period beginning on the date on which the interim rule under paragraph (1)(A) is promulgated, an individual may import a prescription drug from Canada for personal use or for the use of a family member of the individual (rather than for resale), subject to compliance with the following conditions:

(A) The drug is not—

(i) a controlled substance, as defined in section 812 of the Controlled Substances Act (21 U.S.C. 812);

(ii) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262);

(iii) an infused drug, including a peritoneal dialysis solution;

(iv) an intravenously injected drug;

(v) a drug that is inhaled during surgery; or

(vi) a drug approved by the Secretary under part H of part 314 of title 21, Code of Federal Regulations (relating to accelerated approval) with restrictions under section 520 of such part such safe use assurance.

(B) The drug is dispensed by a person licensed in a State the United States that is imported or offered for import into the United States under section 804 of such Act.

(C) The drug is accompanied by a copy of the prescription for the drug, which prescription—

(i) is valid under applicable Federal and State laws; and

(ii) was issued by a practitioner who, under the law of a State of which the individual is a resident, is authorized to administer prescription drugs.

(D) The drug is accompanied by a copy of the document that was required in Canada as a condition of dispensing the drug to the individual.

(E) The copies referred to in subparagraphs (C) and (D) are marked in a manner sufficient—

(i) to indicate that the prescription, and the equivalent document in Canada, have been filled; and

(ii) to prevent a duplicate filling by another pharmacist.

(F) The quantity of the drug does not exceed a 90-day supply.

(3) FACILITATION OF CANADIAN IMPORTS.—Section 804 of such Act is amended by striking subsection (g)(2)(C)(i) of such section 804 and inserting the following:

"(g)(2) With respect to a prescription drug that is imported or offered for import into the United States by an individual who is not in the business of such importation, that drug may be imported under section 804 and that is refused admission under subsection (a), the Secretary shall notify the individual that—

(1) the drug has been refused admission because the drug was not a lawful import under section 804;

(2) the drug is not otherwise subject to a waiver or exemptions of subsection (a); and

(3) the individual may under section 804 lawfully import certain prescription drugs from Canadian exporters registered with the Secretary; and

(4) the individual can find information about such importation, including a list of registered exporters, on the Internet website of the Food and Drug Administration.

(4) EFFECT OF PROVISIONS.—The amendments made in subsection (d), section 6, and section 7 of this Act shall have no effect with respect to imports made under paragraph (2).

(5) AMENDMENT OF CERTAIN PROVISION.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by striking subsection (g) and inserting the following:

"(g) With respect to a prescription drug that is imported or offered for import into the United States by an individual who is not in the business of such importation, that drug shall be subject to—

(1) the drug has been refused admission because the drug was not a lawful import under section 804;

(2) the drug is not otherwise subject to a waiver or exemptions of subsection (a); and

(3) the individual may under section 804 lawfully import certain prescription drugs from Canadian exporters registered with the Secretary; and

(4) the individual can find information about such importation, including a list of registered exporters, on the Internet website of the Food and Drug Administration.

(6) ANTICOMPETITIVE PRACTICES RELATING TO IMPORTING AND EXPORTING DRUGS TO THE UNITED STATES.—The Clayton Act (15 U.S.C. 2 et seq.) is amended by adding at the end the following:

"SEC. 27. RESTRAINT OF TRADE REGARDING PRESCRIPTION DRUGS IMPORTED, EXPORTED, OR TRANSPORTED TO THE UNITED STATES."

(1) The Clayton Act. The Clayton Act (15 U.S.C. 12 et seq.) is amended by adding at the end the following:

"(a) In General.—It shall be unlawful for any person engaged in commerce, directly or indirectly to—

(1) charge a higher price for prescription drugs sold to a registered exporter or other person that exports prescription drugs to the United States under section 804 of the Federal Food, Drug, and Cosmetic Act than the price that is charged to another person that is in the same country and that does not export prescription drugs into the United States under section 804 of such Act;

(2) charge a higher price for prescription drugs sold to a registered importer or other person that distributes, sells, or uses prescription drugs imported to the United States under section 804 of such Act or that does not distribute, sell, or use such drugs;

(3) deny supplies of prescription drugs to a registered importer or other person that distributes, sells, or uses prescription drugs imported to the United States under section 804 of such Act;

(4) publicly, privately, or otherwise refuse to do business with a registered exporter or other person that exports prescription drugs to the United States under section 804 of such Act or with a registered importer or other person that distributes, sells, or uses prescription drugs imported to the United States under section 804 of such Act; or

(6) fail to provide promptly any information requested by the Secretary of Health and Human Services to review such an application.

(8) cause there to be a difference (including a difference in active ingredient, route of administration, dosage form, strength, formulation, manufacturing establishment, manufacturing process, or person that manufactures the drug) between a prescription drug for distribution in the United States under section 804 of such Act and a prescription drug for distribution in the United States proves that the registering, processing, packing, or holding of a prescription drug offered for import under section 804 to good manufacturing practice under such Act; or

(9) engage in any other action that the Federal Trade Commission determines to unfairly restrict competition under section 804 of such Act.

(b) PRESUMPTION.—A difference (including a difference in active ingredient, route of administration, dosage form, strength, formulation, manufacturing establishment, manufacturing process, or person that manufactures the drug) between a prescription drug for distribution in the United States and a prescription drug for distribution in Australia, Canada, a member country of the European Union as of January 1, 2003, Japan, New Zealand, or Switzerland for the purpose of restricting importation of the drug to the United States under section 804 of such Act;

(b) REFUSAL TO ALLOW AN INSPECTION AUTHORIZED UNDER SECTION 804 OF SUCH ACT TO BE MADE OF THE PRESCRIPTION DRUG THAT IS OFFERED FOR IMPORT UNDER SUCH SECTION;

(b) FAIL TO COMFORM TO THE METHODS USED IN, OR THE FACILITIES USED FOR, THE MANUFACTURING, PROCESSING, PACKING, OR HOLDING OF A PRESCRIPTION DRUG OFFERED FOR IMPORT UNDER SECTION 804 TO GOOD MANUFACTURING PRACTICE UNDER SUCH ACT;

(b) ENGAGE IN ANY OTHER ACTION THAT THE FEDERAL TRADE COMMISSION DETERMINES TO UNFAIRLY RESTRICT COMPETITION UNDER SECTION 804 OF SUCH ACT.

(b) PUBLIC LAW 108-80. Section 804 of such Act is amended by adding at the end the following:

"(e) Regulatory Agency.—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, may promulgate, after notice and opportunity for public hearing, regulations to carry out the purposes of this Act and until the expiration of the 60-day period that begins on the date on which the interim rule under paragraph (1)(A) is promulgated, the Secretary shall, through the Internet website of the Food and Drug Administration, make readily available to the public a list of persons licensed in Canada to dispense prescription drugs who will not be willing to export drugs under paragraph (2) to individuals in the United States.

(f) EFFECT OF PROVISIONS.—The amendments made in subsection (d), section 6, and section 7 of this Act shall have no effect with respect to imports made under paragraph (2).
of Food and Drug, determines that the difference was necessary to improve the safety or efficacy of the drug; or

(3) the person manufacturing the drug for distribution in the United States has given notice to the Secretary of Health and Human Services under subsection (a) of section 804 of such Act that the drug for distribution in the United States is not different from a drug for distribution in not fewer than half of those countries.

(c) WAIVER OF PENALTY.—It shall be an affirmative defense to a charge that a person has violated paragraph (1), (2), (3), (4), or (5) of subsection (a) that the higher prices charged for prescription drugs sold to a person, the denials of supplies of prescription drugs to a person, the refusal to do business with a person, or the specific restriction or delay of supplies to a person is not based, in whole or in part, on—

(1) the person exporting or importing prescription drugs to the United States under section 804 of the Federal Food, Drug, and Cosmetic Act; or

(2) the person distributing, selling, or using prescription drugs imported to the United States under section 804 of such Act.

(d) DEFINITIONS.—In this section:

(1) PRESCRIPTION DRUG.—The term ‘prescription drug’—

(A) means a drug that is de-

(B) has been approved for dispensation in a foreign country, and the drug was dispensed in an individual while the individual was in a foreign country, and the drug was dispensed in accordance with the laws and regulations of such country.

(B) REGISTERED IMPORTER.—The term ‘registered importer’ has the meaning given such term in section 804 of the Federal Food, Drug, and Cosmetic Act; or

(C) REGISTERED EXPORTER.—The term ‘registered exporter’ has the same meaning as in section 804 of the Federal Food, Drug, and Cosmetic Act.

(2) APPLICABILITY OF AMENDMENTS TO IMPORTATION UNDER THE PHARMACEUTICAL MARKET ACCESS AND FAIR TRADE ACT OF 2001.—

(A) IMPORTATION FROM CANADA.—Paragraphs (1) through (5) and (11) of subsection (a) of section 27 of the Clayton Act (15 U.S.C. et seq.) (as amended by paragraph (1) shall apply with respect to the importation of drugs from Canada under subsection (c)(2).

(B) NOTICES RESPECTING DRUG FOR IMPORTATION FROM CANADA.—Paragraphs (1) through (5) and (11) of subsection (a) of section 27 of the Clayton Act (15 U.S.C. et seq.) (as amended by paragraph (1)) shall apply with respect to notices required under section 381 et seq. of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) that are not submitted by the dates required under subsection (c)(1)(C) and (D).

(E) EXHAUSTION.—

(1) IN GENERAL.—Section 271 of title 35, United States Code, is amended—

(A) by redesignating subsections (b) and (i) as (i) and (j), respectively; and

(B) by inserting after subsection (g) the following:

(‘‘(b) shall not be an act of infringement to use, offer to sell, or sell within the United States or to import into the United States any patented invention under section 804 of the Federal Food, Drug, and Cosmetic Act that was first sold abroad by or under the authority of the owner or licensee of such patent;’’)

(2) RULE OF CONSTRUCTION.—Nothing in the amendment made by paragraph (1) shall be construed to affect the ability of a patent owner to exercise their patent, subject to such amendment.

SEC. 104. ADDITIONAL WAIVERS REGARDING PERSONAL IMPORTATION; ENFORCEMENT; UNIFORMITY.

(a) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

‘‘(p) 10. Waivers under this subsection are in addition to, and independent of, the waiver pursuant to section 804(a)(2)(B).

(2) With respect to the standards referred to in subsection (a) the Secretary shall establish by regulation a waiver of such standards in the case of the importation by an individual of a drug into the United States in the following circumstances:

(A) The drug was dispensed to the individual while the individual was in the United States and the drug accompanied the individual at the time of entry.

(B) The individual is entering the United States and the drug accompanies the individual at the time of entry.

(C) The drug does not appear to the Secretary to be adulterated.

(D) The quantity of the drug does not exceed a 90-day supply.

(E) The drug is accompanied by a statement that the individual seeks to import the drug into the United States under a personal importation waiver.

(F) Such additional standards as the Secretary determines to be appropriate to protect the public health.

(2) With respect to the standards referred to in subsection (a) and (d)(1), the Secretary shall establish by regulation a waiver of such standards in the case of the importation into the United States of an individual of a drug into the United States in the following circumstances:

(A) The drug was dispensed to the individual while the individual was in a foreign country, and the drug was dispensed in accordance with the laws and regulations of such country.

(B) The individual is entering the United States and the drug accompanies the individual at the time of entry.

(C) The drug is approved for commercial distribution in the foreign country in which the drug was obtained.

(D) The drug does not appear to the Secretary to be adulterated.

(E) The quantity of the drug does not exceed—

(i) a 90-day supply if the drug is dispensed in Australia, Canada, a member country of the European Union, Japan, New Zealand, or Switzerland; or

(ii) a 14-day supply otherwise.

(F) The drug is accompanied by a statement that the drug is being imported into the United States under a personal importation waiver.

(G) Such additional standards as the Secretary determines to be appropriate to protect the public health.

(q) The Secretary may not administer any enforcement policy that has the effect of permitting the importation of a prescription drug into the United States in violation of this Act or section 351 of the Public Health Service Act.

(b) ADDITIONAL WAIVER.—This Act and the amendments made by this Act shall not be construed as authorizing the Secretary of Health and Human Services to establish a waiver of the standards referred to in section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(a)) with respect to the importation by an individual of a drug into the United States that does not meet such standards, provided that the Secretary has the authority to establish such standards as an alternative.

(c) RULE OF CONSTRUCTION.—This section may not be construed as having any legal effect on applicable law with respect to a shipment of drugs that is imported or offered for import into the United States and has a declared value equal to or greater than $10,000.

(b) PROCEDURES.— Procedures for carrying out section 805 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall be established not later than 90 days after the date of the enactment of this Act.

SEC. 105. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION INTO UNITED STATES.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 102, is further amended by adding at the end the following:

‘‘SEC. 805. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION.

(a) IN GENERAL.—The Secretary of Homeland Security shall refuse admission to a drug that is imported or offered for import into the United States if the shipment has a declared value of less than $10,000 and the drugs are in violation of any standards referred to in section 801(d)(1), including any drugs imported or offered for import under enforcement policies prohibited under section 801(g)(3).

(b) IMPORTATION UNDER SECTION 805.—In the case of a drug that under section 804 is imported or offered for import from a registered importer, the reference in subsection (a) to standards referred to in section 801(a) or 801(d)(1) shall be considered a reference to standards referred to in section 804(g)(3)(B).

(c) DESTRUCTION OF VIOLATIVE SHIPMENTS.—Drugs refused admission under subsection (a) or (b) shall be destroyed, subject to subsection (e). Section 801(b) does not authorize the delivery of the drugs pursuant to the execution of a bond, and the drugs may not be exported.

(d) CERTAIN PROCEDURES.—

(1) IN GENERAL.—The removal of admission and destruction of drugs under this section may be carried out without notice to the importer, owner, or consignee of the drugs except as required by section 805(g) or section 805(h)(2). The issuance of receipts for the drugs, and recordkeeping activities regarding the drugs, may be carried out on a summary basis.

(2) OBJECTIVE OF PROCEDURES.—Procedures promulgated under paragraph (1) shall be designed toward the objective of ensuring that, with respect to efficiently utilizing Federal resources available for carrying out this section, a substantial majority of shipments of drugs subject to subsection (a) or (b) are identified and refused admission and destroyed.

(e) EVIDENCE EXCEPTION.—Drugs may not be destroyed under subsection (c) to the extent that the Attorney General of the United States determines that the drugs should be preserved as evidence or potential evidence with respect to an offense against the United States.

(f) RULE OF CONSTRUCTION.—This section may not be construed as having any legal effect on applicable law with respect to a shipment of drugs that is imported or offered for import into the United States and has a declared value equal to or greater than $10,000.

(b) PROCEDURES.—Procedures for carrying out section 805 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall be established not later than 90 days after the date of the enactment of this Act.

SEC. 106. CIVIL ACTIONS REGARDING PROPERTY.

Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following:

‘‘(q) 1. If a person is alienating or disposing of property, or intends to alienate or dispose of property, that is obtained as a result of or is traceable to a drug that is imported or offered for import into the United States by reason of section 801(a) or 801(d), the Attorney General may commence a civil action in any Federal court to enjoin such alienation or disposition of property; or

(3) for a restraining order to—
"(1) prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such property or property of equivalent value; and
"(2) appoint a temporary receiver to administer such restraining order.

SEC. 107. WHOLESALE DISTRIBUTION OF DRUGS; STATEMENTS REGARDING PRIOR SALE, PURCHASE, OR TRADE.

(a) Striking of Exemptions; Applicability to Registered Exporters.—Section 503(e) of the Food, Drug, and Cosmetic Act (21 U.S.C. 353(e)) is amended—

(1) in paragraph (1)—

(A) by striking "and who is not the manufacturer or an authorized distributor of record of such drug";

(B) by striking "to an authorized distributor of record or"; and

(C) by striking subparagraph (B) and inserting the following:

"(B) The fact that a drug subject to subsection (b) is exported from the United States does not with respect to such drug except...

(C)(i) The Secretary may by regulation establish requirements that supersede subparagraph (A) (referred to in this subparagraph as 'alternative requirements') to identify the other party engaged in the business of the wholesale distribution of the drug from providing the statement described in subparagraph (A) to the person that receives the drug under the export of the drug.

(C)(ii) The Secretary may by regulation establish requirements that supersede subparagraph (A) to the person that receives the drug pursuant to the export of the drug.

(C)(iii) The Secretary may by regulation establish requirements that supersede subparagraph (A) to the person that receives the drug with equal certainty to the requirements of subparagraph (A), and that the alternative requirements are economically and technologically feasible.

"(ii) if the Secretary promulgates a final rule to establish such alternative requirements, the final rule in addition shall, with respect to the registration condition established under section 804(c)(1)(A), establish a condition equivalent to the alternative requirements, and such equivalent condition supersedes such clause (i)."

"(b) The fact that a drug subject to subsection (b) from the manufacturer of the drug throughout the wholesale distribution of the drug to a pharmacist who intends to sell the drug for personal use.

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"(b) The Secretary shall provide a notice in the Federal Register; and

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187(b)(4) of the Social Security Act, including practices with only 1 physician), and any other facility or clinician determined appropriate by the Director.

4. HEALTH INFORMATION TECHNOLOGY.—The term 'health information technology' means a computerized system that—

(A) is consistent with the standards developed under this section;

(B) permits the secure electronic transmission of information to other health care providers and public health entities; and

(C) is capable of providing access in real-time to the patient's complete medical record.

5. TECHNOLOGY INFRASTRUCTURES.—The term 'local health information infrastructure' means the local health information infrastructure of a particular organization of health care entities that establishes a computerized system to store and share information among health care providers and public health entities; and

6. OFFICE.—The term 'Office' means the Office of Health Information Technology established under section 2002.

SEC. 2002. OFFICE OF HEALTH INFORMATION TECHNOLOGY.

(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Office of Health Information Technology. The Office shall be headed by a Director to be appointed by the President. The Director shall serve at the pleasure of the President.

(b) PURPOSE.—It shall be the purpose of the Office to—

(1) improve the quality and increase the efficiency of health care delivery through the use of health information technology;

(2) provide national leadership relating to, and encourage the adoption of, health information technology;

(3) direct all health information technology activities within the Federal Government;

(4) facilitate the interaction between the Federal Government and the private sector relating to health information technology development and use;

(c) DUTIES AND RESPONSIBILITIES.—The Office shall be responsible for the following:

(1) NATIONAL STRATEGY.—The Office shall develop a national strategy for improving the quality and enhancing the efficiency of health care through the improved use of health information technology and the creation of a national Health Information Infrastructure.

(2) FEDERAL LEADERSHIP.—The Office shall—

(A) serve as the principle advisor to the President concerning health information technology;
(2) REQUIREMENTS.—The standards developed and adopted under paragraph (1) shall be designed to:

(A) enable health information technology to be designed, developed, and adopted by health care setting to improve quality and efficiency; or

(B) promote the interoperability of health care information across health care settings;

(C) develop and adopt health care information technology standards through the use of health information technology; and

(D) ensure the privacy and confidentiality of medical records.

(3) PUBLIC PRIVATE PARTNERSHIP.—Consistent with activities being carried out on the date of enactment of this title, including the Consolidated Health Informatics Initiative (or a successor organization to such Initiative), health information technology standards shall be adopted by the Director under paragraph (1) at the conclusion of a collaborative process that includes consultation between the Federal Government and private sector health care and information technology stakeholders.

(4) PRIVACY AND SECURITY.—The regulations promulgated by the Secretary under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and sections 261, 262, 263, and 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note) with respect to the privacy, and security of such information shall apply to the implementation of programs and activities under this title.

(5) PILOT TESTS.—To the extent practical, the Director shall pilot test the health information technology data standards developed under paragraph (1) prior to their implementation for this reason.

(6) DISSEMINATION.—

(A) IN GENERAL.—The Director shall ensure that the standards adopted under paragraph (1) are disseminated to interested stakeholders.

(B) LICENSING.—To facilitate the dissemination and implementation of the standards developed and adopted under paragraph (1), the Director may license such standards, or utilize other means, to ensure the widespread use of such standards.

(c) MODIFICATION OF STANDARDS.—

(1) PURCHASE OF SYSTEMS BY THE SECRETARY.—Effective beginning on the date that is 1 year after the adoption of the technology standards pursuant to subsection (a), the Secretary shall not purchase any health care information technology system unless such system is in compliance with the standards adopted under subsection (a), or shall the Director approve any proposal pursuant to section 2902(c)(3) unless such proposal utilizes systems that are in compliance with the standards adopted under subsection (a).

(2) APPROPRIATED FUNDS.—Effective on the date described in paragraph (1), no appropriated funds may be used to purchase any health care information technology system unless such system is in compliance with applicable standards adopted under subsection (a).

(d) USE OF FUNDS.—Amounts received under a loan guarantee under subsection (a) shall be used—

(1) with respect to a loan guarantee described in subsection (a)(1)—

(A) to develop a plan for the implementation of a local health information infrastructure; and

(B) to train staff, maintain health information technology systems, and maintain adequate security and privacy protocols;

(2) with respect to a loan guarantee described in subsection (a)(2)—

(A) to purchase and install of health information technology; and

(B) to purchase directly related integrated health information technology systems, and software to establish an interoperable health information technology system that is capable of linking to a national or local health care information infrastructure; and

(C) to train staff, maintain health information technology systems, and maintain adequate security and privacy protocols; and

(3) to carry out any other activities determined appropriate by the Director.

(e) SPECIAL CONSIDERATIONS FOR LOCAL HEALTH INFORMATION INFRASTRUCTURES.—In awarding loan guarantees under this section to local health information infrastructures, the Director shall give special consideration to eligible entities that—

(1) include at least 50 percent of the patients living in the designated coverage area; and

(2) incorporate public health surveillance and reporting into the overall architecture of the proposed infrastructure; and

(f) LINK LOCAL HEALTH INFORMATION INFRASTRUCTURES.—

(1) AREAS OF SPECIFIC INTEREST.—In awarding loan guarantees under this section, the Director shall include—

(A) entities with a coverage area that includes an entire State; and

(B) entities with a multi-state coverage area.

(g) ADMINISTRATIVE PROVISIONS.—

(1) AGGREGATE AMOUNT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the aggregate amount of principal of loans guaranteed under subsection (a) with respect to an eligible entity may not exceed $5,000,000. In any 12-month period, an eligible entity under this section (by a lender under a guaranteed loan) may not exceed $5,000,000.

(B) EXCEPTION.—The cumulative total of the principal of the loans outstanding at any time to which guarantees have been issued under subsection (a) may not exceed such limitations as may be specified in appropria-

(h) PROTECTION OF FEDERAL GOVERNMENT.—

(1) IN GENERAL.—The Director may not approve an application for a loan guarantee under this section unless the Director determines that—

(i) the terms, conditions, security (if any) and schedule of payments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such percent per annum on the principal obligation outstanding as the Director determines to be reasonable, taking into account the range of interest rates prevailing in the private market for loans with similar maturities, terms, conditions, and security and the risks assumed by the United States; and

(ii) the loan would not be available on reasonable terms and conditions without the enactment of this section.

(2) RECOVERY.—

(i) IN GENERAL.—The United States shall be entitled to recover from the applicant for a loan guarantee under this section the amount of any payment made pursuant to such loan guarantee, unless the Director for good cause waives such right of recovery, and, upon making any such payment, the United States shall be entitled to all of the rights of the recipient of the payments with respect to which the loan was made.
(ii) Modification of Terms.—Any terms and conditions applicable to a loan guarantee under this section may be modified by the Director to the extent the Director determines to be consistent with the financial interest of the United States.

(3) Defaults.—The Director may take such action as the Director deems appropriate to protect the interest of the United States in the event of a default on a loan guarantee under this section, including taking possession of, holding, and using real property pledged as security for such a loan guarantee.

(b) Authorization of Appropriations.—

(1) In General.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2006 through 2011.

(2) Availability.—Amounts appropriated under subparagraph (A) shall remain available for obligation until expended.

SEC. 2905. GRANTS FOR THE PURCHASE OF HEALTH INFORMATION TECHNOLOGY.

(a) In General.—The Director may award competitive grants to eligible associations, entities or individuals to implement local health information infrastructures to facilitate the development of interoperability across health care settings;

(b) Eligibility.—To be eligible to receive a grant under subsection (a) an entity shall—

(1) demonstrate financial need to the Director;

(2) with respect to an entity desiring a grant under subsection (a)(1), represent an independent consortium of health care stakeholders within a community that—

(A) includes—

(i) physicians (as defined in section 1881(r)(1) of the Social Security Act);

(ii) hospitals; and

(iii) group health plans or other health insurance issuers (as such terms are defined in section 2791); and

(ii) may include any other health care providers or

(g) Matching Requirement.—

(1) In General.—The Director may not make a grant under this section to an entity unless the entity agrees that, with respect to the costs to be incurred by the entity in carrying out the project involved and of the entities to which such costs and benefits accrue,

(2) with respect to a grant described in subsection (a)(2), the entity shall submit to the Director regular reports on the activities carried out under the loan guarantee, including—

(A) a description of the financial costs and benefits of the project involved and of the entities to which such costs and benefits accrue;

(B) a description of the impact of the project on health care quality and safety; and

(C) a description of any reduction in duplicative or unnecessary care as a result of the project;

(5) provide assurances that not later than 30 days after the development of the standard quality measures pursuant to section 2903, the entity shall submit to the Director regular reports on such measures, including provider level data and analysis of the impact of information technology on such measures;

(6) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require in order to—

(g) Approval of Appropriations.—

(1) In General.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2006 through 2011.

(2) Availability.—Amounts appropriated under paragraph (1) shall remain available for obligation until expended.

SEC. 2906. STANDARDIZED MEASURES OF QUALITY HEALTH CARE AND DATA COLLECTION.

Title XXIX of the Public Health Service Act, as added by section 201, is amended by adding at the end the following:

SEC. 2906. STANDARDIZED MEASURES OF QUALITY HEALTH CARE.

(a) In General.—

(1) Collaboration.—The Secretary of Health and Human Services, the Secretary of Defense, and the Secretary of Veterans Affairs (referred to in this section as the ‘‘Secretaries’’), in consultation with the Quality Interagency Coordination Taskforce (as established by Executive Order on March 13, 1998), the Institute of Medicine, the Joint Commission on Accreditation of Healthcare Organizations, the National Committee for Quality Assurance, the American Health Information Consortium, the National Quality Forum, the Medicare Payment Advisory Commission, and other individuals and organizations determined appropriate by the Secretaries, shall establish uniform quality measures to assess the effectiveness, timeliness, patient-centeredness, efficiency, equity, and safety of care delivered across all federally supported health delivery programs.

(2) Development of Measures.—Not later than 18 months after the date of enactment of this title, the Secretary shall develop standardized sets of quality measures for each of the 20 priority areas for improvement in health care quality as identified by the Institute of Medicine in their report entitled ‘‘Priority Areas for National Action’’ in 2003, or other such areas as identified by the Secretaries in order to assist beneficiaries in making informed choices about health plans or care delivery systems. The selection of appropriate quality indicators under this subsection shall include the evaluation criteria formulated by clinical professionals, consumers, and data collection experts.

(3) Pilot Testing.—Each federally supported health delivery program may conduct a pilot test of the quality indicators developed under paragraph (2) that shall include a collection of patient-level data and a public release of comparative performance reports.

(b) Public Reporting Requirements.—The Secretaries, working collaboratively, shall establish public reporting requirements for institutions, institutional providers, and health plans in each of the federally supported health delivery program described in subsection (a). Such requirements shall provide that the entities described in the preceding sentence shall report to the appropriate Secretaries on the measures developed under subsection (a).

(c) Full Implementation.—The Secretaries, working collaboratively, shall implement all sets of quality measures and report on the progress made toward developing such sets (a) and (b) by not later than the date that is 1 year after the date on which the measures are developed under subsection (a)(2).

(d) Effective Date.—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretaries shall—

(1) submit to Congress a report that details the collaborative progress made on implementing subsection (a), the progress made on standardizing quality indicators throughout the Federal Government, and the state of measuring and reporting on quality that links data to the report submitted under paragraph (2) for the year involved; and
(2) submit to Congress a report that
tails areas of clinical care requiring further
research necessary to establish effective
clinical treatments that will serve as a basis
for additional quality indicators.

(e) COMPARATIVE QUALITY REPORTS.—Be-
ginning not later than 3 years after the date
of enactment of this title, in order to make
comparative quality information available
to health care consumers, including mem-
bers of health disparity populations, health
professionals, public health officials, re-
search into appropriate information and
etalities, the Secretaries shall provide for
the pooling, analysis, and dissemination of
quality measures collected under this sec-

tion. Final regulations shall ensure the on-
ging evaluation of the
use of the health care quality measures es-

(4) ONGOING EVALUATION OF USE.—The
Secretary of Health and Human Services
shall ensure the ongoing evaluation of the
use of the health care quality measures es-

(6) EVALUATION AND REGULATIONS.—

(A) IN GENERAL.—The Secretary shall,
directly or indirectly through a contract with
another entity, conduct an evaluation of the
collaborators, and the Secretaries shall es-
tablish uniform health care quality measures
and reporting requirements for federally sup-
ported health care delivery programs as re-
quired in subsection (a).

(B) REPORT.—Not later than 1 year after
the date of enactment of this title, the Sec-
retary of Health and Human Services shall
submit a report to the appropriate com-
mittees of Congress concerning the results
of the evaluation under subparagraph (A).

(7) REGULATIONS.—Not later than 18 months
after the date on which the report is sub-
mitted under paragraph (1)(B), the Secretary
shall publish final regulations regarding
the application of the uniform health care
quality measures and reporting requirements
described in this section to federally sup-
ported health delivery programs.

(CHAPTER 1—EXPANDED COVERAGE
OF CHILDREN UNDER MEDICAID AND SCHIP
SEC. 301. STATE OPTION FOR 100 PER-
CENT FMAP FOR MEDICAL ASSIST-
ANCE FOR CHILDREN IN POVERTY
IN EXCHANGE FOR EXPANDED COV-
ERAGE OF CHILDREN IN WORKING POOR FAMILIES UNDER TITLE XXI.

(a) STATE OPTION.—Title XIX of the Social
Security Act (42 U.S.C. 1396 et seq.) is
amended by redesignating section 1902 as
section 1936, and by inserting after section
1935 the following:

“STATE OPTION FOR INCREASED FMAP FOR MED-
ICAL ASSISTANCE FOR CHILDREN IN POVERTY
IN EXCHANGE FOR EXPANDED COVERAGE OF
CHILDREN IN WORKING POOR FAMILIES UNDER
TITLE XXI

“SEC. 1936. (a) 100 PERCENT FMAP.—

(1) IN GENERAL.—Notwithstanding any
other provision of this title, in the case of a
State that, through an amendment to each
of its State plans under this title and plan
XXI or (or to a waiver of either such plan),
agrees to satisfy the conditions described in
subsection (b), (c), (d), (e), and (f), the med-
ical assistance percentage shall be 100 per-
cent with respect to the total amount ex-
pended by the State for providing medical assistance under this title for the fiscal
year quarter beginning on or after the date
described in subsection (e) for children whose
family income does not exceed 100 percent of
the poverty line.

(2) LIMITATION ON SCOPE OF APPLICATION
OF INCREASE.—The increase in the Federal
medical assistance percentage for a State under this section shall only be applied
with respect to the total amount expended for
providing medical assistance under this title
for a fiscal year quarter for children described
in paragraph (1) and shall not apply with re-
spect to—

(A) any other payments made under this

(b) payments under title IV or XXI; or

(C) any payments made under this title

title XXI that are counted in the enhanced
FMAP described in section 1902.

(b) ELIGIBILITY EXPANSIONS.—The condi-
tions described in this subsection is that the
State agrees to do the following:

(1) COVERAGE UNDER MEDICAID OR SCHIP
FOR CHILDREN IN FAMILIES WHOSE INCOME DOES NOT EXCEED 300 PERCENT OF THE POVERTY LEVEL

(A) IN GENERAL.—The State agrees to pro-

provide medical assistance under this title or

parent working full time over the course of

(C) It is estimated that 50 percent of all
legal immigrant children in families with
income that is 200 percent of the Fed-
eral poverty line are uninsured. In States
without programs to cover immigrant chil-
dren, 57 percent of non-citizen children are
uninsured.

(D) Children in the Southern and Western
parts of the United States were nearly 1.7
times more likely to be uninsured than chil-
dren in the Northeast. 9.4 percent of chil-
dren are uninsured while in the Midwest, 8.3 percent are uninsured. The
South’s rate of uninsured children is 14.3 per-

(E) Children’s health care needs are neg-
lected in the United States. One-quarter of
young children in the United States are not
fully up to date on their basic immuniza-

tions. One-third of children with chronic
asthma do not get a prescription for the
ecessary medications to manage the disease.

(F) According to the Centers for Disease
Control and Prevention, nearly 1⁄2 of all unin-

harmed by serious childhood diseases.

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child health assistance under title XXI to children whose family income exceeds the medicaid applicable income level (as defined in section 2118(b)(4)) by not more than 300 percent of the poverty line.

(b) State Option to Expand Coverage Through Subsidized Purchase of Family Coverage.—The State may elect to provide (A) through the provision of assistance for the purchase of dependent coverage under a group health plan or health insurance coverage (as described in subparagraph (A) of section 1905(m)(1)), (B) the State agrees to provide "wrap-around" coverage under this title or title XXI.

(i) the dependent coverage is consistent with the benefit standards under this title or title XXI, as determined by the Secretary; 
(ii) the State provides "wrap-around" coverage under this title or title XXI.

(c) Deemed Satisfaction for Certain States.—As of January 1, 2005, provides medical assistance under this title or child health assistance under title XXI to children whose family income is 300 percent of the poverty line shall be deemed to satisfy this paragraph.

(2) Coverage for Children Under Age 21.—The State agrees to define a child for purposes of this title and title XXI as an individual who has not attained 21 years of age.

(3) Opportunity for Higher Income Children to Purchase Child Health Coverage.—The State agrees to permit any child whose family income exceeds 300 percent of the poverty line to purchase "wrap-around" coverage under title XXI at the full cost of providing such coverage, as determined by the State.

(4) Coverage for Legal Immigrant Children.—The State agrees to—
(A) provide medical assistance under this title and child health assistance under title XXI to all non-citizen children who are lawfully residing in the United States (including battered aliens described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) and who are otherwise eligible for such assistance in accordance with section 1903(v)(4) and 2105(e)(1)(E); and
(B) not establish or enforce barriers that deter applications by such aliens, including through the application of the removal of the barriers described in subsection (c).

(c) Enrollment Access Barriers.—The condition described in this subsection is that the State agrees to do the following:

(1) Presumptive Eligibility for Children.—The State agrees to—
(A) provide presumptive eligibility for children applying for assistance under title XXI in accordance with section 1922A;
(B) treat any items or services that are provided to an uncovered child (as defined in section 1915(b)(7)(A)) who is determined ineligible for medical assistance under this title as child health assistance for purposes of paying a provider of such items or services, so long as such items or services would be considered child health assistance for a targeted low-income child under title XXI.

(2) Adoption of 12-Month Continuous Enrollment.—The State agrees to provide that eligibility for assistance under this title and title XXI shall not be regularly determined more often than once every year for children.

(3) Acceptance of Self-Declaration of Income.—The State agrees to permit the family of a child applying for medical assistance for child health assistance under title XXI to declare and certify by signature under penalty of perjury family income for purposes of collecting financial eligibility determinations.

(4) Adoption of Acceptance of Eligibility Determinations for Other Assistance Programs.—The State agrees to accept determinations (made within a reasonable period, as found by the State, before its use for this purpose) of an individual’s family or income status or eligibility for Federal or State agency (or a public or private entity making such determination on behalf of such agency), including the agencies administering the programs described in section 1618, the Richard B. Russell National School Lunch Act, and the Child Nutrition Act of 1966, notwithstanding any differences in benefit unit, disregard, determining, or other methodology, but only if—
(A) such agency has fiscal liabilities or responsibilities with respect to the child under title and title XXI;
(B) any information furnished by such agency pursuant to this subparagraph is used solely for purposes of determining eligibility for medical assistance under this title or for child health assistance under title XXI.

(5) No Assets Test.—The State agrees to not (or demonstrates that it does not) apply any assets or resource test for eligibility under this title or title XXI with respect to children.

(6) Eligibility Determinations and Redeterminations.—
(A) in general.—The State agrees for purposes of initial eligibility determinations and redeterminations of children under this title and title XXI not to require a face-to-face interview and permit applications and renewals by mail, telephone, and the Internet;
(B) nonduplication of information.—(i) in general.—For purposes of redeterminations of eligibility for currently or previously enrolled children under this title and title XXI, the State agrees to use all information in its possession (including information from Federal or State programs) to determine eligibility or redetermine continued eligibility before seeking similar information from parents;
(ii) rule of construction.—Nothing in clause (i) shall be construed as limiting any obligation of a State to provide notice and a fair hearing before denying, terminating, or reducing a child’s coverage based on such information in the possession of the State.

(7) No Waiting List for Children Under Title XXI.—The State agrees not to impose any numerical limitation, waiting list, waiting period, or similar limitation on the eligibility of children for child health assistance under title XXI or to establish or enforce other barriers to the enrollment of eligible children based on the date of their application for coverage.

(8) Adequate Provider Payment Rates.—The State agrees to—
(A) establish payment rates for children’s health care providers under this title that are no less than the average of payment rates for similar services for such providers under the benchmark benefit package described in section 2105(e)(1)(E); and
(B) establish rates in amounts that are sufficient to ensure that children enrolled under this title and title XXI have adequate access to comprehensive care, in accordance with the requirements of section 1902(a)(30)(A); and
(C) include provisions in its contracts with providers under this title guaranteeing compliance with these requirements.

(d) Maintenance of Medicaid Eligibility Levels for Children.—
(1) In general.—The condition described in this subsection is that the State agrees to maintain eligibility income, resources, and methodologies applied under this title (including the condition described in section 1115) with respect to children that are no more restrictive than the eligibility income, resources, and methodologies applied with respect to children under this title (including under such a waiver) as of January 1, 2005.

(e) Date Described.—The date described in this subsection is the date on which, with respect to a State, a plan amendment that satisfies the requirements of subsections (b), (c), (d) is approved by the Secretary.

(‘‘(f) Definition of Poverty Line.—In this section, the term ‘poverty line’ has the meaning given that term in section 2118(b)(3).’’)

(2) Conforming Amendments.—
(1) The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396b(b)) is amended by inserting before the period the following:—

‘‘(A) In general.—The State agrees for purposes of initial eligibility determinations and redeterminations of children under this title and title XXI not to require a face-to-face interview and permit applications and renewals by mail, telephone, and the Internet;’’

(2) In section 1903(m)(4) of the Social Security Act (42 U.S.C. 1396m(4)) is amended—
(A) in subparagraph (C), by adding ‘‘or’’ after ‘‘section 1611(b)(1),’’; and
(B) by inserting after subparagraph (C), the following:

‘‘(D) who would not receive such medical assistance but for State electing the option under section 1906 any of the conditions described in subsections (b), (c), and (d) of such section.’’

SEC. 202. ELIMINATION OF CAP ON SCHIP FUNDING FOR STATES THAT EXPAND ELIGIBILITY FOR CHILDREN.

(a) In general.—Section 2105 of the Social Security Act (42 U.S.C. 1397d) is amended by adding at the end the following:

‘‘(B) Guaranteed Funding for Child Health Assistance for Coverage Expansion States.’’

(b) Appropriations.—There is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the purpose of paying a State described in paragraph (1) for each quarter beginning on or after the date described in section 1936(d), an amount equal to the enhanced FMAP of expenditures described in paragraph (1) and incurred during such quarter.

(c) Conforming Amendments.—Section 2104 of the Social Security Act (42 U.S.C. 1397d) is amended—

(1) in subsection (a), by inserting ‘‘subject to section 2105(h),’’ after ‘‘under this section,’’;
(2) in subsection (b)(1), by inserting ‘‘and section 2105(h)’’ after ‘‘Subject to paragraph’’;
(3) in subsection (c)(1), by inserting ‘‘subject to section 2105(h),’’ after ‘‘for a fiscal year.’’
SEC. 321. REFUNDABLE CREDIT FOR HEALTH INSURANCE COVERAGE OF CHILDREN.

(a) In General.—Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended by adding at the end the following:

"(A) IN GENERAL.—Such term and inserting the following:

"(A) In General.—Such term and

(3) Coordination with deduction for health insurance costs of self-employed individuals.—In the case of a taxpayer who is eligible to deduct any amount under section 162(l) (as so effectively amended), subsection (a) shall only if the taxpayer elects not to claim any amount as a deduction under such section for such taxable year.

(4) Coordination with medical expense and high deductible health plan deductibles.—The amount which would (but for this paragraph) be treated as a payment for qualified health insurance (as defined in section 36(c)).

(b) Application under Title XXI.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1396p-1(e)(1)) is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(2) by inserting after subparagraph (A), the following:

"(B) Section 1902(1)(5) (relating to passive renewal of eligibility for children)."

CHAPTER 3—TAX INCENTIVES FOR HEALTH INSURANCE COVERAGE OF CHILDREN

SEC. 321. REFUNDABLE CREDIT FOR HEALTH INSURANCE COVERAGE OF CHILDREN.

(a) In General.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 35 and by inserting after section 35 the following new section:

"SEC. 36. HEALTH INSURANCE COVERAGE OF CHILDREN.

(a) In General.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to so much of the amount paid during the tax year for qualified health insurance for each dependent child of the taxpayer, as exceeds 5 percent of the adjusted gross income of such taxpayer for such taxable year.

(b) Dependent Child.—For purposes of this section, the term ‘dependent child’ means any child (as defined in section 152(f)(1)) who has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins and with respect to whom a deduction under section 151 is allowable to the taxpayer.

(c) Qualified Health Insurance.—For purposes of this section—

(1) In General.—The term ‘qualified health insurance’ means insurance, either employer-provided or made available under title XIX or XXI of the Social Security Act, which provides hospital care as defined in section 213(d)(4) without regard to—

(A) paragraph (1)(C) thereof, and

(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance contracts.

(2) Exclusion of Certain Other Contracts.—Such term shall not include insurance, if a substantial portion of the benefits are excepted benefits (as defined in section 9832(c)).

(d) Medical Savings Account and Health Savings Account Contributions.—

(1) In General.—If a deduction would (but for paragraph (2)) be allowed under section 220 or 223 as an adjustment for the taxable year to the medical savings account or health savings account of an individual, subsection (a) shall be applied by treating such payment as a payment for qualified health insurance for such individual.

(2) Denial of double benefit.—No deduction shall be allowed under section 220 or 223 for that portion of the payments otherwise allowable as a deduction under section 220 or 223 for the taxable year which is equal to the amount of credit for such taxable year by reason of this subsection.

(e) Special Rules.—

(1) Determination of insurance costs.—The Secretary shall provide rules for the allocation of the cost of any qualified health insurance for family coverage to the coverage of any dependent child under such insurance.

(2) Coordination with deduction for health insurance costs of self-employed individuals.—In the case of a taxpayer who is eligible to deduct any amount under section 162(l) (as so effectively amended) a credit shall be allowed under this section to such taxpayer for such year.

(3) Coordination with medical expense and high deductible health plan deductibles.—The amount which would (but for this paragraph) be treated as a payment for qualified health insurance (as defined in section 36(c)).

(f) Election Not To Claim Credit.—This section shall not apply to a taxpayer for any taxable year in which such individual’s taxable year begins.

(g) Denial of Double Benefit.—No credit shall be allowed under subsection (a) if the credit under section 35 is allowed and no credit shall be allowed under section 36 if a credit is allowed under this section.

(b) Information Reporting.—

(1) In General.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6605T the following new section:

"SEC. 6605U. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

(a) In General.—Any governmental unit or any person who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of a dependent child (as defined in section 36(b)) of such individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

(b) Form and Manner of Returns.—A return is described in this subsection if such return—

(1) is in such form as the Secretary may prescribe, and

(2) contains—

(1) the name, address, and TIN of the individual from whom payments described in subsection (a) were received.

(2) the name, address, and TIN of each dependent child (as so defined) who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage, and

(3) such other information as the Secretary may reasonably prescribe.

(c) Creditable Health Insurance.—For purposes of this section, the term ‘creditable health insurance’ means qualified health insurance (as defined in section 36(c)).

(d) Statements to Be Furnished to Individuals With Respect to Who Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

(2) the aggregate amount of payments described in subsection (a) received by the person, and the amount of the return to be furnished from the individual to whom the statement is required to be furnished, and

(3) the information required under subsection (b)(2)(B) with respect to such payments.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

(e) Returns Which Would Be Required To Be Made By 2 Or More Persons.—Except to the extent provided by regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).

(2) Assessable Penalties.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xiii) through (xvii) as clauses (xvii) through (xix), respectively, and by inserting after clause (xvii) the following new clause:

"(xviii) section 6605U (relating to returns relating to payments for qualified health insurance)."

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking ‘‘or’’ at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting ‘‘; or’’; and by adding to the end the following new subparagraph:

"(CC) section 6605U(d) (relating to returns relating to payments for qualified health insurance)."

(3) Clerical Amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6605T the following new item:

"Sec. 6605U. Returns relating to payments for qualified health insurance."

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking ‘‘or’’ at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting ‘‘; or’’; and by adding to the end the following new items:

(1) Conforming Amendments.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ‘‘; or’’, from section 36 of such Code.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code is amended by striking the last item and inserting the following new items:
SEC. 22. TERMINATION OF PERSONAL EXEMPTION FOR ANY CHILD NOT COVERED BY HEALTH INSURANCE.

(a) In General.—Section 151(c) of the Internal Revenue Code of 1986 (relating to exemption amount) is amended by adding at the end the following new paragraph:

"(c) Reduction of exemption amount for any child not covered by qualified health insurance.—"

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the exemption amount otherwise determined under this subsection for any dependent child (as defined in section 151(c)) for any taxable year shall be reduced by the same percentage as the percentage of such taxable year during which such dependent child was not covered by qualified health insurance (as defined in section 151(c)).

(B) Full Reduction if No Proof of Coverage.—For purposes of subparagraph (A), in the case of any taxpayer who fails to return to the employer an annual report of the amount paid for any taxable year a copy of the statement furnished to such taxpayer under section 6050U, the percentage reduction under such subparagraph shall be deemed to be 100 percent.

(C) Nonapplication of Paragraph to Taxpayers in Lowest Tax Bracket.—This paragraph shall not apply to any taxpayer whose taxable income for the taxable year does not exceed the initial bracket amount determined under section 151(c)(1)(B).

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning on or after January 1, 2004.

SEC. 232. EFFECTIVE DATE.

Unless otherwise provided, the amendments made by this subtitle shall take effect on the first day of the first taxable year beginning after January 1, 2006.

CHAPTER 4—MISCELLANEOUS

SEC. 331. REQUIREMENT FOR GROUP MARKET HEALTH INSURERS TO OFFER DEPENDENT COVERAGE OPTION FOR WORKERS WITH CHILDREN.

(a) ERISA.—

(1) IN GENERAL.—Subpart B of part 7 of subchapter A of chapter 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

"SEC. 714. Requirement to offer option to purchase dependent coverage for children.

(a) Requirement for Coverage.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, shall offer an individual who is enrolled in such coverage the option to purchase dependent coverage for a child of the individual.

(b) Employer Contribution Required.—An employer shall not be required to contribute to the cost of purchasing dependent coverage for a child by an individual who is an employee of such employer.

(c) Definition of Child.—In this section, the term ‘child’ means an individual who has not attained 21 years of age.

(2) Clerical Amendment.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) is amended by inserting after the item relating to section 713 the following:

"Sec. 714. Requirement to offer option to purchase dependent coverage for children."

(b) Public Health Service Act.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-1 et seq.) is amended by adding at the end the following:

"SEC. 2707. REQUIREMENT TO OFFER OPTION TO PURCHASE DEPENDENT COVERAGE FOR CHILDREN.

(a) Requirement for Coverage.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, shall offer an individual who is enrolled in such coverage the option to purchase dependent coverage for a child of the individual.

(b) No Employer Contribution Required.—An employer shall not be required to contribute to the cost of purchasing dependent coverage for a child by an individual who is an employee of such employer.

(c) Definition of Child.—In this section, the term ‘child’ means an individual who has not attained 21 years of age.

(d) Effective Date.—The amendments made by this section shall apply to plan years beginning on or after January 1, 2006.

SEC. 332. EFFECTIVE DATE.

Unless otherwise provided, the amendments made by this section shall apply to taxable years beginning on or after January 1, 2006.

SEC. 351. STATE OPTION TO EXPAND OR ADD COVERAGE FOR LOW-INCOME PREGNANT WOMEN UNDER THE MEDICAID PROGRAM AND STATE CHILDREN’S HEALTH INSURANCE PROGRAM.

(a) Medicaid.—

(1) AUTHORITY TO EXPAND COVERAGE.—Section 1902(b)(2)(A) of the Social Security Act (42 U.S.C. 1396a(b)(2)(A)) is amended by inserting "and the State meets the conditions described in section 1905(u)(5)(A)" after "1902(l)(2)(A)".

(2) Enhanced Matching Funds Available if Certain Conditions Met.—Section 1905(u)(5) of the Social Security Act (42 U.S.C. 1396u-5(u)(5)) is amended by inserting after paragraph (3) the following:

"(4) For purposes of the fourth sentence of section 1905(a) and section 1905(u)(5)(A) for any plan year beginning on or after January 1, 2006, expenditures for medical assistance for a targeted low-income child shall not exceed the income eligibility level established under subsection (a), the expenditure for medical assistance for a targeted low-income child described in section 1905(u)(4)(A) and the income official poverty line."?

(b) SCHIP.—

(1) Coverage.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

"SEC. 2111. OPTIONAL COVERAGE OF TARGETED LOW-INCOME PREGNANT WOMEN.

(a) Optional Coverage.—Notwithstanding any other provision of this title, a State may provide for coverage, through an amendment to its SCHIP plan under section 2110, or through an amendment to its SCHIP plan under section 2110, of medical assistance for targeted low-income pregnant women in accordance with this section, but only if—

(1) the State has established an income eligibility level for pregnant women under subsection (a)(10)(A)(i)(II) or (i)(II) of section 1902 that is at least 185 percent of the official Federal poverty line; and

(2) the State meets the conditions described in section 1905(u)(5)(B).

(b) Definitions.—For purposes of this title:

(1) Pregnancy-related Assistance.—The term ‘pregnancy-related assistance’ means the funding provided to States for activities associated with pregnancy (which include prenatal, delivery, and postpartum services and services described in section 1905(a)(1)(C)) and to other conditions that may complicate pregnancy.

(2) Targeted Low-Income Pregnant Woman.—The term ‘targeted low-income pregnant woman’ means a woman—

(A) who is pregnant during the period of time beginning on the date of the birth of her child and ending 30 days after the date of the birth of her child; or

(B) whose family income exceeds the effective income level (expressed as a percent of the poverty line and considering applicable income disregards) that has been specified under subsection (a) of section 1902 of the Social Security Act, as of January 1, 2005, to be eligible for medical assistance for a pregnant woman under title XIIX but does not exceed the income eligibility level established under the State child health plan under this title for a targeted low-income child; and

(C) who satisfies the requirements of paragraphs (1), (1), (1), and (3) of section 1905(b).

(c) References to Terms and Special Rules.—In this section, any reference to a State providing for coverage of pregnancy-related assistance to targeted low-income pregnant women under subsection (a) of section 1902—

(1) Any reference in this subtitle (other than in subsection (b)) to a targeted low-income preg...
child is deemed to include a reference to a targeted low-income pregnant woman.

(2) Any such reference to child health assistance with respect to such women is deemed to be a reference to pregnancy-related assistance.

(3) Any such reference to a child is deemed to be a reference to a woman during pregnancy and the period described in subsection (b)(2)(A).

(4) In applying section 2102(b)(3)(B), any reference to children found through screening to be eligible for medical assistance under the State medicaid plan under title XIX is deemed a reference to pregnant women.

(5) There shall be no exclusion of benefits for services described in subsection (b)(1) based on any preexisting condition and no waiting period (including any waiting period imposed to carry out section 2102(b)(3)(C)) shall apply.

(6) Subsection (a) of section 2103 (relating to required scope of health insurance coverage) shall not apply to insured State sponsored medicaid plans.

(7) In applying section 2103(a)(1)(C) of the Social Security Act (42 U.S.C. 1396a(a)(1)(C)), the reference to the full allotment to States under this title is deemed to be a reference to the amount available for medical assistance under title XIX for any fiscal year (insofar as it is available under subsection (e) and (g) of such section) for payments under title XIX in accordance with subsection (d) of such section, instead of for expenditures under this title.

(8) USE OF ADDITIONAL ALLOTMENT.—Additional allotments provided under this section are available for amounts expended before October 1, 2005. Such amounts are available for amounts expended on or after such date for child health assistance for targeted low-income children, as well as for pregnancy-related assistance for targeted low-income pregnant women.

(9) No payments unless election to expand coverage of pregnant women.—No payments may be made to a State under this title for the election to provide for the provision of health care for pregnant women described in clause (ii) of section 2102(a)(10)(A)(i)(II) or (1)(2)(A) of section 1902 for the fiscal year if such election was not in effect on the first day of such fiscal year.

(10) No payments unless election to extend coverage of pregnant women.—No payments may be made to a State under this title for the election to provide for the provision of health care for pregnant women described in clause (ii) of section 2102(a)(10)(A)(i)(II) or (1)(2)(A) of section 1902 for the fiscal year if such election was not in effect on the first day of such fiscal year.

(11) No payments under section 2105(g) of the Social Security Act (42 U.S.C. 1396b(v)) is amended—

(1) in the heading, by inserting "after October 1, 2005, has an income eligibility standard under section 1902(a)(1)(A) or a statewide waiver in effect under section 1902(a)(3) with respect to this title that is at least 185 percent of the poverty line with respect to pregnant women, the State may elect to use not more than 20 percent of the amount of the allotment under section 2104 for any fiscal year (insofar as it is available under subsections (e) and (g) of such section) for payments under title XIX in accordance with this paragraph, instead of for expenditures under this title.

(12) Payments to States.—

(1) IN GENERAL.—In the case of a State described in paragraph (A) that has elected the option described in that subparagraph, subject to the availability of funds under such subparagraph and, if applicable, paragraph (1)(A), with respect to the State, the Secretary shall pay the State an amount equal to the additional amount that would have been paid to the State under paragraph (1)(A) if the State had not been precluded by law from providing such benefits.

(13) Use of additional allotment.—Use of additional allotments provided under this subparagraph is available for expenditures described in clause (ii) if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1905(b)).

(14) Expenditures described.—For purposes of this subparagraph, the expenditures described in this clause are expenditures made after the date of the enactment of this paragraph and during the period in which funds are available to the State for use under this subparagraph, which funds may be made available to the State on a nationwide basis.

(15) Other amendments to Medicaid.—

(a) Eligibility of a newborn.—Section 1902(a)(4)(D) of the Social Security Act (42 U.S.C. 1396a(a)(4)(D)) is amended by adding after paragraph (1) the following paragraph:

"(2) A pregnant woman who has given birth to a child that is alive at the time of the birth and who has not yet attained 28 weeks of gestation shall be treated as having given birth to a child that is alive at the time of the birth and who has not yet attained 28 weeks of gestation for purposes of subsection (a)(10) of this section if the State defines that woman for purposes of such subsection (a)(10) as a "pregnant woman" and provides for payment of medical assistance for services described in clause (ii) of section 1902(a)(10)(A)(i)(II) or (1)(2)(A) of section 1902 for the fiscal year if such election was not in effect on the first day of such fiscal year.

(2) The term "qualified provider" includes a qualified entity under section 1902(a)(3)(C)."

(b) Effective date.—The amendments made by this section apply to items and services furnished on or after October 1, 2005, without regard to whether regulations implementing such amendments have been promulgated.

SEC. 532. OPTIONAL COVERAGE OF LEGAL IMMIGRANTS UNDER THE MEDICAID PROGRAM.

(a) Medicaid Program.—Section 1903(v) of the Social Security Act (42 U.S.C. 1396v(v)) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (4)"; and
(2) by adding at the end the following new paragraph:—

"(4)(A) A State may elect (in a plan amendment under this title) to provide medical assistance for tobacco cessation services for pregnant women who are lawfully residing in the United States (including battered aliens described in section 422(c)(2)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) and who are otherwise eligible for such assistance, within any of the following eligibility categories:—

(1) PREGNANT WOMEN.—Women during pregnancy (and during the 60-day period beginning on the last day of the pregnancy).—

(2) A woman for whom pregnancy is a result of rape or incest described in section 1905(a)(2)(B)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(2)(B)(ii)).—

(B) In the case of a State that has elected to provide medical assistance to a category of aliens under subparagraph (A), no such assistance shall accrue under an affidavit of support against any sponsor of such an alien on the basis of provision of assistance to such category and the cost of such assistance shall not be considered as an unreimbursed cost.

(ii) The provisions of sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not apply to a State that makes an election under subparagraph (A).—

(b) TITLE XXI.

(b)(2) by redesignating subparagraphs (F) through (I) of section 1916 of the Social Security Act (42 U.S.C. 1396o(e)(1)) as amended by adding at the end the following new subparagraph:

"(E) Section 1905(v)(4) (relating to optional coverage of permanent resident alien pregnant women and children), but only with respect to an eligibility category under this title, if the same eligibility category has been elected under such section for purposes of title XIX."—

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2005, and apply to medical assistance and child health assistance furnished on or after such date.

SEC. 353. PROMOTING CESSATION OF TOBACCO USE UNDER THE MEDICAID PROGRAM.

(a) DROPPING EXCEPTION FROM MEDICAID PRESCRIPTION DRUG COVERAGE FOR TOBACCO CESSATION MEDICATIONS.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396d-8(d)(2)) is amended—

(1) by striking subparagraph (E);—

(2) by redesigning subparagraphs (F) through (I) as subparagraphs (E) through (I), respectively; and—

(3) in subparagraph (F) (as redesignated by paragraph (2)), by inserting before the period at the end the following:—

"...except agents approved by the Food and Drug Administration for purposes of promoting, and when used to promote, tobacco cessation..."—

(b) PROMOTING COVERAGE OF TOBACCO CESSATION COUNSELING SERVICES FOR PREGNANT WOMEN.—Section 1905 of the Social Security Act (42 U.S.C. 1396a(a)(4)) is amended—

(1) by striking subsection (C);—

(2) by striking "and" before "(C)"; and—

(3) by inserting before the semicolon at the end the following:—

"...and counseling for cessation of tobacco use (as defined in subsection (x)) for pregnant women and children..."—

(c) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date that is 1 year after the date of enactment of this Act, and shall not be considered as an unreimbursed cost.

SEC. 354. PROMOTING CESSATION OF TOBACCO USE UNDER THE MATERNL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM.

(a) QUALITY MATERNL AND CHILD HEALTH SERVICES INCLUDES TOBACCO CESSATION COUNSELING AND MEDICATIONS.—

(1) IN GENERAL.—The Administrator of the Health Resources and Services Administration shall assess the current national core performance measures and national core outcome measures utilized under the Maternal and Child Health Block Grant under title V of the Social Security Act (42 U.S.C. 701 et seq.) for purposes of expanding such measures to include a measure of tobacco cessation in health promotion and counseling for smoking cessation and the inclusion of antitobacco messages in health promotion counseling shall be considered to be part of quality maternal and child health services..."—

(b) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that is 1 year after the date of enactment of this Act.

(c) EVALUATION OF NATIONAL CORE PERFORMANCE MEASURES.—

(1) IN GENERAL.—The Administrator of the Health Resources and Services Administration shall assess the current national core performance measures and national core outcome measures utilized under the Maternal and Child Health Block Grant under title V of the Social Security Act (42 U.S.C. 701 et seq.) for purposes of expanding such measures to include a measure of tobacco cessation in health promotion counseling shall be considered to be part of quality maternal and child health services..."—

SEC. 1937. (a) IN GENERAL.—

(1) INITIAL PERIOD.—A State plan amendment made under subsection (a) may provide that any individual who was receiving medical assistance described in section 1905(a)(4)(C) as a result of such amendment, and who becomes ineligible for such assistance because of hours of, or income from, employment, may remain eligible for such medical assistance through the end of the 6-month period that begins on the first day the individual becomes so ineligible.

(b) ADDITIONAL EXTENSION.—A State plan amendment made under subsection (a) may provide that any individual who has received medical assistance described in section 1905(a)(4)(C) during the entire 6-month period described in paragraph (1) may be extended coverage for such assistance for a succeeding 6-month period..."—

SEC. 356. STATE OPTION TO EXTEND THE POST-ELIGIBILITY PERIOD FOR PROVIDING FAMILY PLANNING SERVICES AND SUPPLIES.

(a) IN GENERAL.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) apply to medical assistance provided on and after October 1, 2005.
SEC. 357. STATE OPTION TO PROVIDE WRAP-AROUND SCHIP COVERAGE TO CHILDREN WHO HAVE OTHER HEALTH COVERAGE.

(a) IN GENERAL.—

(1) SCHIP.—

(A) FIRST OPTION TO PROVIDE WRAP-AROUND COVERAGE.—A State may waive the requirement of paragraph (1)(C) that a targeted low-income child may not be covered under a group health plan or under health insurance coverage, as otherwise established for other children under the State child health plan.

(B) CONDITIONS DESCRIBED.—Section 1905(a)(1) of the Social Security Act (42 U.S.C. 1396aee(x)(1)) is amended by adding at the end the following:

(6) CONDITIONS FOR PROVISION OF WRAP-AROUND COVERAGE.—For purposes of section 2110(b)(5), the conditions described in this paragraph are the following:

(1) INCOME ELIGIBILITY.—The State child health plan has been implemented under title XIX or this XXI—

(i) has the highest income eligibility standards permitted under this title as of January 1, 2005;

(ii) subject to subparagraph (B), does not limit the acceptance of applications for children; and

(iii) provides benefits to all children in the State who apply for and meet eligibility standards.

(B) WAITING LIST IMPOSED.—With respect to children whose family income is at or below 200 percent of the poverty line, the State does not impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan.

(C) NO MORE FAVORABLE TREATMENT.—The State child health plan may not provide more favorable coverage of dental services to the children covered under section 2110(b)(5) than to children otherwise covered under this title.

(D) STATE OPTION TO WAIVE WAITING PERIOD.—Section 2102(b)(1)(B) of the Social Security Act (42 U.S.C. 1397bb(b)(1)(B)), as amended by section 3(b)(3)(B), is amended by adding at the end the following:

(i) in clause (ii), by striking “,” and” at the end and inserting a semicolon;

(ii) in clause (iii), by striking the period at the end and inserting “;”;

(iii) by adding at the end of the following new clause:

(iv) at State option, may not apply a waiting period in the case of a child described in section 2110(b)(5), if the State satisfies the requirements of section 2105(c)(8).”,

(2) APPLICATION OF ENHANCED MATCH UNDER MEDICAID.—Section 1905 of the Social Security Act (42 U.S.C. 1396d), as amended by section 2(a)(2), is amended—

(A) in subsection (b), in the fourth sentence (i) by redesignating paragraph (5) as paragraph (6); and

(ii) by inserting after paragraph (4) the following:

(G) For purposes of subsection (b), the expenditures described in this paragraph are expenditures for items and services for children described in section 2110(b)(5), but only in the case of an entity that satisfies the requirements of section 2105(c)(8).”.

(3) APPLICATION OF SECONDARY PAYOR PROVISIONS.—Section 1902(e)(1) of the Social Security Act (42 U.S.C. 1396a(e)(1)), as amended by section 3(b), is amended by adding at the end the following:

(F) Section 1902(a)(25) (relating to coordination of benefits for payor provisions) with respect to children covered under a waiver described in section 2110(b)(5).”.

(4) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2005, and shall apply to child health and medical assistance provided on or after that date.

SEC. 358. INNOVATIVE OUTREACH PROGRAMS.

Title XXI of the Social Security Act (42 U.S.C. 1396a et seq.), as amended by section 3(b), is amended by adding at the end the following:

SEC. 2112. EXPANDED OUTREACH ACTIVITIES.

(a) IN GENERAL.—Funds made available under subsection (b) for expenditure under this section for a fiscal year shall be used by the Secretary to award grants to eligible entities to conduct innovative outreach and enrollment activities designed to increase the enrollment and participation of eligible children under this title and title XIX.

(b) PRIORITY FOR GRANTS IN CERTAIN AREAS.—In making grants under subsection (a), the Secretary shall give priority to eligible entities that propose to target geographic areas with high rates of—

(1) eligible but unenrolled children, including such children who reside in rural areas;

(2) families for whom English is not their primary language; or

(3) racial and ethnic minorities and health disparity populations.

(c) APPLICATION.—An eligible entity that desires to receive a grant under this section shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may determine. Such application shall include—

(1) a description of how the entity intends to increase the enrollment and participation of eligible children under this title and title XIX;

(2) proof of primary language; or

(3) methods to evaluate the effectiveness of activities funded by a grant under this paragraph to ensure that the activities are meeting their goals; and

(4) an assurance that the entity will—

(1) collect and report enrollment data; and

(2) disseminate findings from evaluations of the activities funded under the grant.

(d) REPORT.—The Secretary shall report to Congress on an annual basis the results of the outreach activities under grants awarded under this section.

(e) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ means any of the following:

(1) A State.

(2) A national, local, or community-based public or nonprofit organization.

(3) A local, regional, or national health plan (whether implemented under title XIX or this XXI).

(4) An entity that satisfies the requirements of section 2105(c)(8).”.

Subtitle C—Affirming the Importance of Medicaid

SEC. 361. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) provides essential health care and long-term care coverage to more than 50,000,000 low-income children, families, and individuals with disabilities, and senior citizens. It is a Federal guarantee that even the most vulnerable will have access to needed medical care.

(2) Medicaid provides health insurance for more than 1⁄4 of America’s children and is the largest purchaser of maternity care, paying for more than 1⁄3 of all births in the United States each year.

(3) Medicaid provides critical help for the elderly and individuals with disabilities. Medicaid is America’s single largest purchaser of nursing home services and other long-term care, covering the majority of nursing home residents.

(4) Medicaid pays for personal care and other supportive services, which are typically not provided by private health insurance, even if individuals could obtain it. These services are necessary to enable individuals with spinal cord injuries, developmental disabilities, neurological degenerations, serious mental illnesses, HIV/AIDS, and other chronic conditions to remain in the community, to work, and to maintain independence.

(5) Medicaid is an essential supplement to the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1396 et seq.) for more than 600,000 Medicare beneficiaries who are low-income elderly or disabled, assisting them with their Medicare premiums and co-insurance, wrap-around benefits, and in most States, the costs of nursing home care that Medicare does not cover.

(6) About 42 percent of all Medicaid spending goes to those who are living with disabilities and are dually eligible for Medicare and Medicaid.

(7) Medicaid faces an ever growing burden as a result of Medicare’s gaps. The Medicaid program spent nearly $40,000,000,000 on uncovered Medicare services in 2002. Medicaid payments for low-income Medicare beneficiaries cost-sharing are the largest and fastest growing share of Medicaid spending.

(8) The Medicare drug benefit imposes additional costs on States, which will add to the already significant cost burden. Medicaid spending on Medicare beneficiaries’ long-term care costs is expected to grow from $25,000,000,000 in 2002 to $51,000,000,000 in 2012.

(9) Medicaid helps ensure access to care for all Americans. Medicaid is the single largest source of revenue for many net hospitals and health centers and is critical to the ability of those providers to serve Medicaid enrollees and uninsured Americans.

(10) Medicaid serves a major role in ensuring that the number of Americans without health insurance, approximately 45,000,000 in 2003, is not substantially higher. Medicaid reduces the drop in private coverage during recessions. More than 4,800,000 Americans lost employer sponsored coverage between 2000 and 2003. Medicaid covered an additional 5,800,000 Americans during this period, preventing even greater numbers of uninsured.

(11) Medicaid matters to women in America. More than 16,000,000 women depend on Medicaid for their health care. Women constitute the majority of seniors (71 percent) on Medicaid. Half of nonelderly women with permanent mental or physical disabilities have Medicaid coverage. Medicaid.

(12) Medicaid provides treatment for low-income women diagnosed with breast or cervical cancer in every State.

(13) Medicaid is critical for children with disabilities. Medicaid covers 78 percent of all Americans. Medicaid is the single largest purchaser of maternity care, paying for more than 1⁄3 of all births in the United States each year.

(14) Medicaid helps ensure access to care for all Americans. Medicaid is the single largest source of revenue for many net hospitals and health centers and is critical to the ability of those providers to serve Medicaid enrollees and uninsured Americans.

(15) Medicaid serves a major role in ensuring that the number of Americans without health insurance, approximately 45,000,000 in 2003, is not substantially higher. Medicaid reduces the drop in private coverage during recessions. More than 4,800,000 Americans lost employer sponsored coverage between 2000 and 2003. Medicaid covered an additional 5,800,000 Americans during this period, preventing even greater numbers of uninsured.

(16) Medicaid matters to women in America. More than 16,000,000 women depend on Medicaid for their health care. Women constitute the majority of seniors (71 percent) on Medicaid. Half of nonelderly women with permanent mental or physical disabilities have Medicaid coverage. Medicaid.

(17) Medicaid provides treatment for low-income women diagnosed with breast or cervical cancer in every State.

(18) Medicaid is critical for children with disabilities. Medicaid covers 78 percent of all Americans. Medicaid is the single largest
5 years of age and 70 percent of poor children with disabilities who are between the ages of 5 and 17. Similarly, Medicaid covers a substantial portion of children with disabilities who are over 18 and 70 percent or more of children with disabilities who are under 5 years of age and 25 percent of children with disabilities who are between the ages of 5 and 17.

(13) Medicaid is the Nation’s largest source of payment for mental health services, HIV/AIDS care, and care for children with special needs. Of this care, 40 percent of children with disabilities who are under 5 years of age and 25 percent of children with disabilities who are between the ages of 5 and 17 are covered by private insurance or limited in scope or duration. Medicaid is also a critical source of funding for health care for children in foster care and in schools.

(14) The need for Medicaid is greater than ever today, because the number of Americans living in poverty has increased by 8,000,000 over the last 4 years and the number of the uninsured has increased by 5,000,000.

(15) The system of Federal matching for State Medicaid expenditures ensures that Federal funds will grow as State spending increases in response to unmet needs.

(16) Despite the varied population served by the Medicaid program, including those with significant health care needs, Medicaid per capita growth has been consistently about half the rate of growth in private insurance premiums and Medicaid has far lower administrative costs. Medicaid costs less per person than private coverage for people who have similar health status.

(b) Sense of the Senate.—It is the sense of the Senate that—

(1) the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is a critical component of the health care system of the United States;

(2) Federal support for the Medicaid program must be adequate to support State spending meeting the essential health needs of the elderly, the income elderly, low-income individuals with disabilities, and low-income children and families, and should not be cut or capped; and

(3) any retreat from the Federal commitment to Medicaid would threaten not only the health care safety net of the United States but the entire health care system.

TITLE II—Reducing Health Care Costs for Small Employers

Subtitle A—Tax Relief

SEC. 401. REFUNDABLE CREDIT FOR SMALL BUSINESS EMPLOYEE HEALTH INSURANCE EXPENSES.

(a) In General.—Part C of title IV of subsection A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and inserting after section 35 the following new section:

**SEC. 36. SMALL BUSINESS EMPLOYEE HEALTH INSURANCE EXPENSES.**

“(a) Determination of Amount.—In the case of a qualified small employer, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the expense amount described in subsection (b) paid by the taxpayer during the taxable year.

“(b) Expense Amount.—For purposes of this section—

(1) In General.—The expense amount described in this subsection is the applicable percentage of the amount of qualified employee health insurance expenses of each qualified small employer.

(2) Applicable Percentage.—For purposes of paragraph (1), the applicable percentage is equal to—

(A) if the qualified small employer described in subparagraph (A) of paragraph (4), 50 percent,

(B) for any qualified small employer described in subparagraph (B) of paragraph (4), 35 percent, and

(C) for any qualified small employer described in subparagraph (C) of paragraph (4), 25 percent.

“(3) PER EMPLOYER DOLLAR LIMITATION.—

The amount of qualified employee health insurance expenses taken into account under paragraph (1) with respect to any qualified small employer for any taxable year shall not exceed—

(A) $1,500 in the case of self-only coverage; and

(B) $3,000 in the case of family coverage.

“(4) QUALIFIED SMALL EMPLOYERS DEFINED.—A qualified small employer is described in—

(A) this subparagraph if such employer employed an average of 9 or fewer employees (as determined under subsection (c)(1)(A)(ii)),

(B) this subparagraph if such employer employed an average of more than 9 but less than 25 employees (as so determined), and

(C) this subparagraph if such employer employed an average of more than 24 but not more than 50 employees (as so determined).

“(c) Definitions.—For purposes of this section—

(1) QUALIFIED SMALL EMPLOYER.—

(A) In General.—The term ‘qualified small employer’ means, with respect to any calendar year, any employer if—

(i) such employer pays or incurs at least 75 percent of employee health insurance expenses of each qualified employee (determined without regard to subsection (b)(3)), and

(ii) such employer employed an average of 50 or fewer employees on business days during either of the 2 preceding calendar years.

For purposes of clause (i), a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under subparagraph (A)(ii) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

(C) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

(A) In General.—The term ‘qualified employee health insurance expenses’ means, with respect to any period, an amount paid or incurred for health insurance coverage (as defined in section 4980B(b)(1)) to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

(C) QUALIFIED EMPLOYER.—

(A) In General.—The term ‘qualified employer’ means, with respect to any period, an employer if—

(i) the annual amount of hours in the employment of such employer by such employee is at least 400 hours,

(ii) the total amount of wages paid or incurred by such employer to such employee at an annual rate during the taxable year is at least $5,000, and

(iii) such employee is not eligible for—

(I) any benefits under title XVIII, XIX, or XXI of the Social Security Act (determined without regard to any dollar limitation contained in such section), and

(II) any other publicly-sponsored health insurance program.

(2) AMOUNT.—For purposes of subparagraph (A), the term ‘employee’—

(i) shall not include an employee within the meaning of section 414(n), and

(ii) shall include a leased employee within the meaning of section 414(n).

(3) WAGES.—The term ‘wages’ has the meaning given such term by section 3401(a)(1) of the Internal Revenue Code of 1986 (determined without regard to any dollar limitation contained in such section).

(4) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

(e) Coordination With Deduction for Health Insurance Costs of Self-Employed Individuals.—In the case of a taxpayer who is eligible to deduct any amount under section 162(l) for the taxable year, this section shall apply only if the taxpayer elects not to claim any amount as a deduction under such section for such year.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period “,” or from section 36 of such Code.

(2) The table of sections for subpart C of part IV of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

“Sec. 36. Small business employee health insurance expenses.

“Sec. 37. Overpayments of tax.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2005.

B. Three-Share Program

SEC. 421. THREE-SHARE PROGRAMS.

The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following:

**TITLE XXI—PROVIDING FOR THE UNINSURED**

**SEC. 2201. THREE-SHARE PROGRAMS.**

“(a) PILOT PROGRAMS.—The Secretary, acting through the Administrator, shall award grants under this section for the startup and operation of 25 eligible three-share pilot programs for a 5-year period.

(b) GRANTS FOR THREE-SHARE PROGRAMS.—

(1) ESTABLISHMENT.—The Administrator may award grants to eligible entities—

(A) to establish three-share programs;

(B) to provide for contributions to the premiums assessed for coverage under a three-share program as provided for in subsection (c)(2)(B)(iii); and

(C) to establish risk pools.

(2) THREE-SHARE PROGRAM PLAN.—Each entity desiring a grant under this subsection shall develop a plan for the establishment and operation of a three-share program that complies with the requirements of paragraphs (2) and (3) of subsection (c).

(3) APPLICATION.—Each entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner and containing such information as the Administrator may require, including—

(A) a description of the three-share program plan described in paragraph (2); and

(B) an assurance that the eligible entity will—

(i) determine a benefit package;

(ii) recruit businesses and employees for the three-share program;

(iii) build and manage a network of health care providers in an existing network or licensed insurance provider; and

(iv) manage all administrative needs; and
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Voting Opportunity and Technology Enhancement Rights Act of 2005".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. National Federal write-in absentee ballot.
Sec. 4. Voter verified ballots.
Sec. 5. Requirements for counting provisional ballots.
Sec. 6. Minimum requirements voting systems and poll workers in polling places.
Sec. 7. Election day registration.
Sec. 8. Integrity of voter registration list.
Sec. 9. Early voting.
Sec. 10. Acceleration of study on election day as a public holiday.
Sec. 11. Improvements to voting systems.
Sec. 12. Voter registration.
Sec. 13. Establishing voter identification.
Sec. 15. Strengthening the election assistance commission.
Sec. 16. Authorization of appropriations.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The right of all eligible citizens to vote and have their vote counted is the cornerstone of a democratic form of government and the core precondition of government of the people, by the people, and for the people.

(2) The right of citizens of the United States to vote is a fundamental civil right secured and guaranteed by the Constitution of the United States.

(3) Congress has an obligation to reaffirm the right of each American to have an equal right to vote.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
opportunity to vote and have that vote counted in Federal elections, regardless of color, ethnicity, disability, language, or the resources of the community in which they live.

(4) Congress has an obligation to ensure the uniform and nondiscriminatory exercise of that right by removing barriers in the form of administrative procedures and technology and insufficient and unequal resources of State and local governments.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To secure the opportunity to participate in democracy for all eligible American citizens by establishing a national Federal write-in absentee ballot for Federal elections.

(2) To expand and establish uniform and nondiscriminatory requirements and standards to remove administrative procedural barriers and technological obstacles to casting a vote and having that vote counted in Federal elections.

(3) To expand and establish uniform and nondiscriminatory requirements and standards to provide for the accessibility, accuracy, verifiability, privacy, and security of all voting systems and technology used in Federal elections.

(4) To provide a Federal funding mechanism for the States to implement the requirements and standards to preserve and protect voting rights and the integrity of Federal elections in the United States.

SEC. 3. NATIONAL FEDERAL WRITE-IN ABSENTEE BALLOT.

(a) IN GENERAL.—

(1) IN GENERAL.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 1551 et seq.) is amended by adding at the end the following new subtitle:

“Subtitle E—Guidance and Standards

SEC. 297. NATIONAL FEDERAL WRITE-IN ABSENTEE BALLOT.

(a) FORFEIGN BALLOT.—The Commission shall prescribe a national Federal write-in absentee ballot (including a secrecy envelope and mailing envelope for such ballot) for use in elections for Federal office.

(b) STANDARDS.—The Commission shall prescribe standards for—

(1) distributing the national Federal write-in absentee ballot, including standards for distributing such ballot through the Internet;

(2) processing and submission of the national Federal write-in absentee ballot;

(3) IN GENERAL.—Section 202 of the Help America Vote Act of 2002 (42 U.S.C. 15522) is amended by redesignating paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

“(5) carrying out the duties described in subtitle E.

(c) COORDINATION WITH UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING.

(1) IN GENERAL.—The Presidential designee for the Uniform and Overseas Absentee Voting Act, in consultation with the Election Assistance Commission, shall facilitate the return of the national Federal write-in absentee ballot for absent uniformed services voters and overseas voters.

(2) DEFINITIONS.—The terms “absent uniformed service voter” and “overseas voter” shall have the meanings given such terms by section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 301(a)(7)).

SEC. 4. VOTER VERIFIED BALLOTS.

(a) VERIFICATION.—

(1) IN GENERAL.—Section 301(a)(7) of the Help America Vote Act of 2002 (42 U.S.C. 1551(a)(7)) is amended by adding at the end the following new paragraph:

“(7) VOTER VERIFIED BALLOTS.—In order to meet the requirements of paragraph (1)(A)(i), on and after January 1, 2006:

“(A) The voting system shall provide an independent means of voter verification which meets the requirements of subparagraph (B) and which allows each voter to verify the ballot before it is cast and counted.

“(B) A means of voter verification meets the requirements of paragraph (7) if the voting system allows the voter to choose from one of the following options to verify the voter’s vote selection:

“(i) A paper ballot;

“(ii) An audio record;

“(iii) A pictorial record;

“(iv) An electronic record or other means that provides for voter verification that is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that preserves voter independence equal to that provided for other voters.

“(C) Any means of verification described in clause (ii), (iii), or (iv) of subparagraph (B) must be equal to or superior to verification through the use of a paper record.

“(D) The requirements of this paragraph shall not apply to any voting system purchased before January 1, 2009, in order to meet the requirements of paragraph (3)(B).”.

(2) CONFORMING AMENDMENT.—Section 401 of the Help America Vote Act of 2002 (42 U.S.C. 15511) is amended by striking ‘‘(3) and” and inserting ‘‘(3),’’ and inserting ‘‘(4), and (7)” after “independent manner.”

(3) Any abbreviation, misspelling, or other minor variation in the form of the name of any political party shall be disregarded in determining the validity of the ballot.
systems and poll workers for each polling place on the day of any Federal election and on any days during which early voting is allowed for a Federal election.

"(b) DISTRIBUTION.—The standards described in subsection (a) shall provide for a uniform and nondiscriminatory geographic distribution of such systems and workers.

"(c) Deviation.—The standards described in subsection (a) shall permit States, upon providing adequate public notice, to deviate from one or more requirements in case of unforeseen circumstances such as a natural disaster, terrorist attack, or a change in voter turnout.

SEC. 299. STANDARDS FOR ESTABLISHING THE MINIMUM REQUIRED VOTING SYSTEMS AND POLL WORKERS.

(a) IN GENERAL.—The Commission shall issue standards regarding the minimum number of voting systems and poll workers required for each polling place on the day of any Federal election and on any days during which early voting is allowed for a Federal election.

(b) DISTRIBUTION.—The standards described in subsection (a) shall provide for a uniform and nondiscriminatory geographic distribution of such systems and workers.

"(c) Deviation.—The standards described in subsection (a) shall permit States, upon providing adequate public notice, to deviate from one or more requirements in case of unforeseen circumstances such as a natural disaster, terrorist attack, or a change in voter turnout.

SEC. 300. ELECTION DAY REGISTRATION.

(a) REQUIREMENT.—Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

"SEC. 299. ELECTION DAY REGISTRATION.

(a) REQUIREMENT.—Subtitle C of title III of the Help America Vote Act of 2002 is, as added and amended by this Act, is amended by adding at the end the following new section:

"SEC. 299A. ELECTION DAY REGISTRATION FORM.

The Commission shall develop an election day registration form for elections for Federal office.

SEC. 8. INTEGRITY OF VOTER REGISTRATION LIST.

Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

"SEC. 324. REMOVAL FROM VOTER REGISTRATION LIST.

"(a) PUBLIC NOTICE.—Not later than 45 days before any Federal election, each State shall provide public notice of all names which have been removed from the voter registration list of such State under section 303 since the later of the most recent election for Federal office and the date of the last report of the most recent previous public notice provided under this section.

"(b) Notice to Individual Voters.—

"(1) IN GENERAL.—No individual shall be removed from the voter registration list under section 303 unless such individual is first provided with a notice which meets the requirements of paragraph (2).

"(2) Requirements of Notice.—The notice required under paragraph (1) shall be—

"(A) provided in a uniform and nondiscriminatory manner;

"(B) consistent with the requirements of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.); and

"(C) in the form and manner prescribed by the Election Assistance Commission.

"(c) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after January 1, 2007.

SEC. 9. EARLY VOTING.

(a) IN GENERAL.—Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

"SEC. 325. EARLY VOTING.

"(a) IN GENERAL.—Each State shall allow individuals to vote in an election for Federal office not less than 15 days prior to the day scheduled for such election in the same manner as voting occurs on such day.

"(b) MINIMUM EARLY VOTING REQUIREMENTS.—Each polling place which allows voting prior to the day scheduled for a Federal election pursuant to subsection (a) shall—

"(1) allow such voting for no less than 4 hours on each day (other than Sunday); and

"(2) have unstaffed hours each day for which such voting occurs.

"(c) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after January 1, 2007.

SEC. 10. ACCELERATION OF STUDY ON ELECTION DAY AS A PUBLIC HOLIDAY.

(a) IN GENERAL.—Section 241 of the Help America Vote Act of 2002 (42 U.S.C. 15381) is amended by adding at the end the following new subsection:

"(d) Report on Election Day.—

"(1) IN GENERAL.—The report required under subsection (a) with respect to election administration issues described in subsection (b)(10) shall be submitted not later than 6 months after the date of the enactment of the Voting Enhancement and Technology Accuracy Rights Act of 2006.

"(2) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated under section 210 for fiscal year 2006, $100,000 shall be authorized solely to carry out the purposes of this subsection.

"(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 11. IMPROVEMENTS TO VOTING SYSTEMS.

(a) IN GENERAL.—Subparagraph (B) of section 301(a)(1) of the Help America Vote Act of 2002 (42 U.S.C. 15483(a)(1)(A)) is amended by inserting "a punch card voting system," after "any".

SEC. 12. VOTER REGISTRATION.

(a) IN GENERAL.—Paragraph (4) of section 303(b) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(4)) is amended by adding at the end the following new subparagraph:

"(C) Exception.—On and after January 1, 2009.

"(i) in lieu of the questions and statements required under subparagraph (A), such mail voter registration form shall include an affidavit to be signed by the registrant attesting to citizenship and age, and

"(ii) subparagraph (B) shall not apply.

"(b) INTERNET REGISTRATION.—Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

"SEC. 329. INTERNET REGISTRATION.

Each State shall establish a program under which individuals may access and submit voter registration forms electronically through the Internet.

"(b) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after January 1, 2009.

"(c) STANDARDS FOR INTERNET REGISTRATION.—Subtitle E of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

"SEC. 329C. STANDARDS FOR INTERNET REGISTRATION PROGRAMS.

The Commission shall establish standards regarding the design and operation of programs which allow electronic voter registration through the Internet.

SEC. 13. ESTABLISHING VOTER IDENTIFICATION.

(a) IN GENERAL.—

"(1) IN PERSON VOTING.—Clause (i) of section 303(b)(2)(A)(ii) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(2)(A)(ii)) is amended by striking "or" at the end of subclause (i) and by adding at the end the following new subclause:

"(III) executes a written affidavit attesting to such individual’s identity; or

"(2) VOTING BY MAIL.—Clause (ii) of section 303(b)(2)(A)(ii) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(2)(A)(ii)) is amended by striking "or" at the end of subclause (i), by striking the period at the end of subclause (ii) and inserting "; or", and by adding at the end the following new subclause:

"(III) a written affidavit, executed by such individual, attesting to such individual’s identity;"

"(b) STANDARDS FOR VERIFYING VOTER INFORMATION.—Subtitle E of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

"SEC. 299D. VOTER IDENTIFICATION.

The Commission shall develop standards for verifying the identification information required under section 303(a)(5) in connection with the registration of an individual to vote in a Federal election.

SEC. 14. IMPARTIAL ADMINISTRATION OF ELECTIONS.

(a) IN GENERAL.—

"(1) NOTICES OF CHANGES IN STATE ELECTION LAWS.—Not later than 15 days prior to any Federal election, each State shall issue a
public notice describing all changes in State law affecting the administration of Federal elections since the most recent prior election.

"(c) Effective Date.—Each State shall be required to comply with the requirements of this section on and after January 1, 2007.

SEC. 15. STRENGTHENING THE ELECTION ASSISTANCE COMMISSION.

(a) Budget Requests.—Part 1 of subtitle A of title II of the Help America Vote Act of 2002 (42 U.S.C. 15321 et seq.) is amended by inserting after section 209 the following new section:

"SEC. 209A. SUBMISSION OF BUDGET REQUESTS.

"Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress and to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate.

(b) Exemption From Paperwork Reduction Act.—Paragraph (1) of section 3502 of title 44, United States Code, is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) the Election Assistance Commission;

(c) Rulemaking.—Section 209 of the Help America Vote Act of 2002 (42 U.S.C. 15259) is amended—

(1) by striking "The Commission" and inserting the following:

"(a) In General.—Except as provided in subsection (b), the Commission;

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

"SEC. 209A. TECHNICAL SUPPORT.

"At the request of the Commission, the Director of the National Institute of Standards and Technology shall provide the Commission with technical support necessary for the Commission to carry out its duties under this title.

(e) Authorization of Appropriations.—Section 210 of the Help America Vote Act of 2002 (42 U.S.C. 15330) is amended by striking "for each of fiscal years 2003 through 2005 such sums as may be necessary (but not to exceed $10,000,000 for each such year)" and inserting "$23,000,000 for fiscal year 2006 (of which $3,000,000 are authorized solely to carry out the purposes of section 209) and such sums as may be necessary for succeeding fiscal years".

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

Subsection (a) of section 257 of the Help America Vote Act of 2002 (42 U.S.C. 15486(a) is amended by adding at the end the following new paragraph:

"(4) For fiscal year 2006, $2,000,000,000.

(5) For each fiscal year after 2006, such sums as may be necessary.

SEC. 17. EFFECTIVE DATE.

(a) In General.—Except as provided by section 10 and subsection (b), the amendments made by this Act shall take effect on January 1, 2007.

(b) Exceptions.—The amendments made by section 4, section 11, section 12(b), and subsections (a) and (c) of section 15 shall take effect on January 1, 2009.

By Mr. DAYTON (for himself, Mr. Reid, Ms. Stabenow, Mrs. Feinstein, Mr. Kennedy, Mr. Corzine, Mr. Schumer, Mrs. Murray, Ms. Mikulski, Mr. Lautenberg, Mr. Akaka, Mr. Inouye, Mrs. Clinton, Mr. Levin, Mr. Kerry, Mr. Leahy, Mr. Rockefeller, Mr. Dodd, Mr. Barrasso, and Mr. Durbin):

S. 18. A bill to amend title XVII of the Social Security Act to make improvements to the medicare program for beneficiaries; to the Committee on Finance.

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

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

S. 18

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

SECTION 1. SHORT TITLE. TITLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Meeting Our Responsibility to Medicare Beneficiaries Act of 2005."

(b) Table of Contents.—The table of contents of this Act is as follows:

TITLE I—ELIMINATING SPECIAL INTEREST PREFERENCES.

Title I.

Sec. 101. Negotiating fair prices for Medicare prescription drugs.

Sec. 102. Elimination of MA Regional Plan Stabilization Fund (Slush Fund).

Sec. 103. Application of risk adjustment reflecting characteristics for the entire medicare population in determining costs under this part.

TITLE II—IMPROVING THE MEDICARE PROGRAM FOR BENEFICIARIES.

Title II.

Sec. 201. Eliminating coverage gap.

Sec. 202. Requiring two prescription drug plans to avoid Federal fallback.

Sec. 203. Waiving the enrollment penalty for transition period.

Sec. 204. Improving the transition of full-benefit dual eligible individuals to coverage under the medicare drug benefit.

Sec. 205. Part B premium reduction.

Sec. 206. Section 1927K—providing incentives to preserve retiree coverage.

Sec. 207. Promoting transparency in employer subsidy payments.

TITLE I—ELIMINATING SPECIAL INTEREST PREFERENCES.


(a) In General.—Section 18001 of title XVIII of the Social Security Act (42 U.S.C. 1395w–11) is amended by striking subsection (i) (relating to noninterference) and by inserting the following new subsection:

"(i) Authority to Negotiate Prices With Manufacturers.—(1) In General.—The Secretary shall have authority similar to that of other Federal entities that purchase prescription drugs in negotiating bulk contracts with manufacturers of covered part D drugs, consistent with the requirements and in furtherance of the goals of providing quality care and containing costs under this Act.

"(2) Required Use of Authority.—(A) FALLBACK PLANS.—The Secretary shall exercise the authority described in paragraph (1) with respect to such drugs offered under all such plans if the Secretary determines that the negotiated prices available under such plans for such drugs are not fair and affordable prices compared to the prices obtained through the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2071).

(b) FDPS and MA–PD Plans.—In order to ensure that the Secretaries can negotiate for prescription drug plans and MA–PD plans and taxpayers are getting fair and affordable prices for covered part D drugs that reflect the bulk purchasing power of such enrollees, the Secretary shall exercise the authority described in paragraph (1) with respect to such drugs offered under all such plans if the Secretary determines that the negotiated prices available under such plans for such drugs are not fair and affordable prices compared to the prices obtained through the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2071).

S. 102. Elimination of MA Regional Plan Stabilization Fund (Slush Fund).

(a) In General.—Subsection (e) of section 1858 of the Social Security Act (42 U.S.C. 1395w–27a) is repealed.

(b) Conforming Amendment.—Section 1858(a)(1) of the Social Security Act (42 U.S.C. 1395w–27a(1)) is amended by striking "subject to subsection (e)");

(c) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of title I of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2071).

S. 103. Application of risk adjustment reflecting characteristics for the entire medicare population in determining costs under this part.

Effective January 1, 2005, risk adjustment factors to payments to organizations under section 1833 of the Social Security Act (42 U.S.C. 1395w–23), the Secretary of Health and Human Services shall ensure that payments to such organizations are adjusted based on such factors to ensure that the health status of the enrollee is reflected in such adjusted payments, including adjusting for the difference between the health status of the enrollee and individuals enrolled under the original medicare fee-for-service plan (under parts A and XVIII of such Act). Payments to such organizations must, in aggregate, reflect such differences.

TITLE II—IMPROVING THE MEDICARE PROGRAM FOR BENEFICIARIES.

Sec. 201. Eliminating coverage gap.

(a) In General.—Section 1802(b)(4)(B) of the Social Security Act (42 U.S.C. 1395w–102(b)(4)(B)) is amended to read as follows:

"(B) annual out-of-pocket threshold.—For purposes of this part, the ‘annual out-of-pocket threshold’ specified in this subparagraph for a year is equal to the greater of—

"(i) $1,600; or

"(ii) the initial coverage limit for the year specified in paragraph (3)."

"(B) FDPS and MA–PD Plans.—In order to ensure that the Secretaries can negotiate for prescription drug plans and MA–PD plans and
(b) CONFORMING AMENDMENT.—Section 1860D-22(a)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395w-132(b)(4)(B)(ii)) is amended by striking “and the annual out-of-pocket threshold, respectively, are annually adjusted under paragraphs (1) and (4)(B) of section 1860D-2(b)” and inserting “is annually adjusted under paragraph (1) of section 1860D-2(b) (using the percentage increase specified in paragraph (6) of such section)”.  

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 101(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2051).  

SEC. 262. REQUIREMENTS TO PRESCRIPTION DRUG PLANS TO AVOID FEDERAL FALLBACK.  

(a) In General.—Section 1860D-3(a) of the Social Security Act (42 U.S.C. 1395w–103(a)) is amended—(1) in paragraph (1)—  

(A) by striking “qualifying plans (as defined in paragraph (3))” and inserting “prescription drug plans”; and  

(B) by striking “, at least one of which is a specialty drug plan,” and inserting “,” and “prescription drug plans”; and  

(2) in paragraph (2), by striking “qualifying plans” and inserting “prescription drug plans”; and  

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 101(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2051).  

SEC. 263. WAIVER OF PART D LATE ENROLLMENT PENALTY FOR TRANSITION PERIOD.  

(a) IN GENERAL.—Section 1860D–2(b) of the Social Security Act (42 U.S.C. 1395w–113(b)) is amended by adding at the end the following new paragraph:  

“(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of section 101(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2051).  

SEC. 264. IMPROVING THE TRANSITION OF FULL-Benefit Dual Eligible Individuals to Coverage Under the Medicare Drug Benefit.  

(a) In General.—Notwithstanding subsection (d)(1) of section 1935 of the Social Security Act (42 U.S.C. 1396u–5), beginning on January 1, 2006, the Secretary of Health and Human Services shall administer a 12-month period during which full-benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act) shall be annually transition from receiving medical assistance for prescribed drugs under the Medicaid program under title XIX of such Act to obtaining coverage for covered part D drugs as defined in section 1860D–2(e) (42 U.S.C. 1395w–102(e)) under title XVIII of such Act in order to assure that such individuals continue to receive the outpatient prescription drugs they need.  

(b) ADJUSTMENTS TO PHASE-DOWN STATE CONTRIBUTION.—The Secretary of Health and Human Services shall make appropriate adjustments to the amount of payments required to be made by a State or the District of Columbia under section 1935(c) of the Social Security Act (42 U.S.C. 1396u–5) for months occurring during the period described in subsection (a) in order to account for increased costs for the provision of medical assistance incurred by the State or the District of Columbia by reason of the application of the transition period required under this section.  

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of section 101(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2051).  

Mr. KENNEDY. Mr. President, the Bush Administration and the Republican Congress are no friend of America’s seniors. In 2003, they enacted legislation to privatize Medicare, even though Medicare has helped a generation of seniors live their golden years with health and dignity. Now their target is Social Security. They want to privatize this trusted program for the benefit of Wall Street bankers. They even want to cut benefits for women because—in the Republican view—they live too long. It’s time to end these shameful attacks on our seniors, reduce prescription costs, and protect Social Security.  

I commend the leadership of my colleagues from Minnesota, Senator DAYTON, and our Democratic Leader, Senator REID, in introducing this urgently needed legislation to fix the broken Medicare Prescription Drug Benefit, so we can ensure Medicare to its promise to the elderly.  

Forty years ago, Congress enacted the landmark legislation that established Medicare. We would do well today to remember President Lyndon Johnson’s words on signing that historic bill in 1965: “No longer will older Americans be denied the healing miracle of modern medicine. No longer will illness crush and destroy the savings they have so carefully put away over a lifetime so that they might enjoy dignity in their later years.”  

The ruinous Medicare legislation that the Republican Congress enacted in 2003 breaks that solemn promise. How many of the millions of seniors could obtain health coverage only at the whim of the insurance industry. If they were too sick or too poor to be profitable to an insurance company, they would be denied health care coverage. Their savings—and their children’s savings—were in jeopardy when illness struck. Before Medicare, senior citizens were among the poorest Americans, with almost three in ten living in poverty. Bankruptcies from overwhelming medical bills were common.  

Medicare changed all that, and 40 years later, President Bush and the Republican Congress are wrong to try to turn back the clock. Some of my colleagues attempt to portray Medicare as a failure. But the facts show that it is one of the most successful endeavors the Nation has ever undertaken. In 1963, before Medicare was enacted, almost half of America’s seniors were uninsured. Today that number is one in a hundred.  

Before Medicare was enacted, Americans turning 65 could expect to live another 14 years. Today, they can expect almost 18 more years. Seniors have understood that Medicare works. They don’t want to return to the days when they had to gamble their health, their savings and their lives on risky private insurance.  

The 2003 Republican bill was sold to the American people as a way to help seniors with the high cost of prescription drugs, so you might think it does something about the high cost of drugs. But it doesn’t. It not only fails to help Medicare lower the cost of drugs—it actually makes it illegal for Medicare to try. Republicans were so worried about protecting drug company profits that they made it illegal for Medicare to do what
the Veterans Administration does for veterans—negotiate discounts on drug prices. The Bush Administration and the GOP Congress wouldn’t dare to prohibit the VA from doing that for the veterans, and they shouldn’t do it for senior citizens either.

The discounts on drug prices for veterans are substantial. On average, the price paid by the VA is 45 percent of the retail price, but often, the savings are even more dramatic. The retail price for Mevacor is $4 a pill, but the VA pays only 25 cents. The undiscounted price of Zantac is $1.83, but the VA pays two cents.

Senator DAYTON’s legislation abolishes the unconscionable provision that bars Medicare from negotiating discounts on drug prices for America’s seniors. That’s not price control—it’s common sense.

Republicans also claim that their new drug benefit is “voluntary.” Not exactly. If seniors don’t sign up the first time around, many Americans will pay more and more to join in subsequent years. When they need the coverage, they may not be able to afford it.

Senator DAYTON’s legislation reverses this flagrant system of fines and makes sure that seniors have the same opportunity to truly voluntary. When Congress enacts it, seniors will be able to sign up for the drug program without facing ruinous fines.

Good prescription drug coverage for senior citizens is a priority for Democrats. For the Administration and the Republicans in Congress, however, tax cuts for billionaires are more important than health care for senior citizens.

In addition, the 2003 Medicare law leaves too many elderly citizens with unaffordable costs. Seniors with moderate incomes and high drug expenses still face high drug costs. The benefits under the GOP law—with its $250 deductible, 25 percent cost-sharing, and $3,600 out-of-pocket limit of $3,600 on costs, but continued co-payment obligations even after the limit is reached—are far less generous than those enjoyed by most younger Americans, even though the elderly need for prescription drugs is much greater.

Senior citizens with an income of $15,000 and drug expenses of $4,000 would have to pay more than $2,900, including premiums, out of their own pockets. That’s too heavy a burden.

If they fall into the so-called doughnut hole, their situation is much worse. Under the 2003 law, the government makes no contribution to any drug costs between $2,250 in expenditures and $3,600 in expenditures. Patients who need $5,200 worth of prescriptions could be forced to pay $2,850 in drug expenses without any help at all from Medicare. That’s too much for an elderly person to pay and still meet other essential medical needs, pay the rent or mortgage, and buy food and other necessities of life.

Senator DAYTON’s proposal begins to fill in that doughnut hole by not allowing the cap on total out of pocket expenditures to rise year after year, as it does under the GOP act. Under Senator DAYTON’s proposal, seniors will have the certainty of knowing where that limit is from one year to the next. As drug expenses rise, more seniors will end up facing the ‘doughnut hole’ from Medicare at these high spending levels, and ultimately, the doughnut hole will close.

The Republican Medicare law is a raw deal for seniors, but it’s a bonanza for the drug industry and the insurance industry. It gives massive subsidies to HMOs. Most Americans probably think it’s the job of insurance companies to guarantee the health of their beneficiaries, but according to the Republican view that’s wrong. They make America’s seniors guarantee the health and wealth of HMOs.

The government already pays private insurance plans 104 percent of what it costs to care for seniors with the same health care. Republicans claim to be in favor of competition, but the playing field is tilted toward HMOs, and their 2003 Act tilted it further. You might think HMOs need that government help because they serve sicker or needier beneficiaries. Not true. Enrollees in private plans are actually healthier than those in Medicare, resulting in a further bonus of 8.7 percent to the private plans.

Senator DAYTON’s legislation requires realistic risk adjustment for private plans that provide services to seniors under Medicare. It removes the artificial calculations that inflate payments to HMOs and other private insurance carriers.

Another problem with the 2003 Act is that if the subsidies don’t provide enough profits, the Republican bill provides cash handouts for the insurance industry. If an HMO doesn’t think it can make a profit in that region for seniors who want to remain in their preferred HMO, the Bush Administration can simply ladle out the cash—which is $12 billion a year—until the bribe is high enough to get the company to participate.

Senator DAYTON’s legislation reverses this outrageous giveaway and ensures that the dollars devoted to this slush fund are used instead to provide better health care for seniors.

The Republican law stacks the deck against competitors and picks winners in other ways. It allows a region to be served by only one prescription drug plan, along with a PPO. That gives the drug plan a monopoly in that region for seniors who want to remain in Medicare. If the only available drug plan is tailored to the healthiest and youngest seniors, it might be acceptable for a senior whose prescription needs are limited. But it gives no help to seniors who take medications for multiple chronic conditions every day. Seniors have no real recourse if they are locked in to the monopoly drug plan. The only way they can get prescription drug coverage is to enroll in the PPO.

Senator DAYTON’s legislation provides an effective guarantee that seniors who wish to remain in traditional Medicare will have a genuine choice of prescription-only plans. If a choice between at least two private drug-only plans is not available in any region, the Federal Government will provide a plan. This proposal ensures that any senior who wishes to remain in Medicare will have access to high-quality affordable prescription drug coverage.

The Republican Medicare law also does not provide a harsh blow to the employer plans that millions of retirees depend on. The Congressional Budget Office estimates that almost three million retirees will lose their current drug coverage, because employers will drop the coverage when retirees become eligible for the new federal benefit, which is not as comprehensive.

Democrats fought to include provisions in that flawed legislation to help employers maintain the good coverage that many Americans depend on to meet their needs in retirement. Sadly, some employers could abuse these subsidies by failing to use them to assist their employees—and the Bush Administration is letting them get away with it. The administration’s weak regulation allow some unscrupulous employers to pocket the subsidy and weaken the coverage.

Senator DAYTON’s legislation will put an end to this scandalous practice by requiring employers to use the funds they receive in subsidies. No longer will employers be able to hide that they are accepting subsidies to maintain retiree health coverage and still cut back the coverage. The Dayton bill also requires new research on ways to help employers maintain retiree coverage.

One of the most troubling aspects of the 2003 Act is that it victimizes six million senior citizens and disabled persons, the poor. Their out-of-pocket payments for drugs will be raised, even though they do not even have coverage for the drugs they need the most.

Today, under Federal law, people with drug coverage under Medicaid may be charged only nominal amounts for the drugs they need. The vast majority of states charge nothing.

For every other Medicare benefit, Medicaid wraps around Medicare coverage. That’s why 40 percent of low income seniors need a drug that is not in the insurance company formulary, they have to go through a burdensome appeals process. Most will simply go without the drug they need.

We are talking about people who are truly the poorest of the poor. In most cases, their incomes are well below poverty. And the impact of even small
co-payments is devastating. Study after study finds that when the poor have to pay more for drugs, they end up hospitalized, in nursing homes, or dead.

Senator DAYTON’s legislation reversed this cruel provision and allows States to delay implementing the requirement that the new Medicare provisions must immediately supplant State Medicaid programs for the poorest of the poor.

Congress should be helping seniors with the burden of high drug costs, not allowing a right wing agenda to destroy the guarantee of affordable health care that America’s seniors deserve and expect.

That’s why Senator DAYTON and Senator REID have introduced this needed legislation, and I urge my colleagues to support it.

By Mr. CONRAD (for himself, Mr. REID, Mr. FEINGOLD, Ms. MIKULSKI, Ms. STABENOW, Mr. INOUYE, Mr. LEAHY, Mr. SALAZAR, Mr. ROCKEFELLER, Mr. SCHUMER, Mrs. FEINSTEIN, Mr. DAYTON, Mr. KIN, and Mrs. CANTWELL): S. 19. A bill to reduce budget deficits by restoring budget enforcement and strengthening fiscal responsibility; to the Committee on the Budget.

Mr. CONRAD. Mr. President, 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. 19

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 “Fiscal Responsibility for a Sound Future Act”.

SEC. 2. EXTENSION OF THE DISCRETIONARY SPENDING CAPS.

(a) In General.—Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)) is amended to read as follows:

“(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term ‘discretionary spending limit’ means, with respect to fiscal year 2005:

‘(1) for the discretionary category: $836,268,000,000 in new budget authority and $895,966,000,000 in outlays;

‘(2) for the highway category: $31,171,000,000 in outlays;

‘(3) for the mass transit category: $956,000,000 in new budget authority and $6,748,000,000 in outlays;

as adjusted in strict conformance with subsection (b).’;

(b) COMMITMENT OF THE SENATE.—Congress should enact a limit on total discretionary spending for fiscal year 2006.

SEC. 3. EXTENSION OF PAY-AS-YOU-GO REQUIREMENT.

Section 272 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (a), by striking “enacted before October 1, 2002.” and

(2) in subsection (b), by striking “enacted before October 1, 2002.”.

SEC. 4. EXTENSION OF BUDGET ENFORCEMENT THROUGH 2015.

Section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 note) is amended by adding at the end the following:

“(d) REENACTMENT.—Part C of this title is reenacted into law effective for fiscal year 2006. Part D shall expire at the end of fiscal year 2015.”;

SEC. 5. RECONCILIATION FOR DEFICIT REDUCTION.

(a) In General.—It shall not be in order in the Senate to consider under the expedited procedures applicable to reconciliation in sections 301 and 310 of the Congressional Budget Act of 1974 any bill, resolution, amendment, amendment between Houses, motion, or conference report that increases the deficit in the first fiscal year covered by the most recently adopted concurrent resolution on the budget, the period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget, or the period of the 5 fiscal years following the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(b) BUDGET RESOLUTION.—It shall not be in order in the Senate to consider pursuant to sections 301, 305, or 310 of the Congressional Budget Act of 1974 pertaining to concurrent resolutions on the budget any resolution, concurrent resolution, amendment, amendment between Houses, motion, or conference report that contains any reconciliation directive that would increase the deficit in the first fiscal year covered by the most recently adopted concurrent resolution on the budget, the period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget, or the period of the 5 fiscal years following the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(c) SUPERMAJORITY VOTING REQUIREMENT.—This section may be waived or suspended in the Senate only by an affirmative vote of 3 of the Members, duly chosen and sworn. An affirmative vote of 3 of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. 6. SENATE PAYGO RULE.

(a) In General.—Section 505(a)(5)(A) of H. Con. Res. 95 (108th Congress) is amended by striking “as adjusted for any changes in revenues or direct spending assumed by such resolution”;

(b) EXPANSION DATE.—Section 505(e) of H. Con. Res. 95 (108th Congress) is amended by striking “2008” and inserting “2015”.

By Mr. REID (for himself, Mrs. MURRAY, Mr. SCHUMER, Mr. CORZINE, Mr. LAUTENBERG, Mrs. CLINTON, Mr. KERRY, Mrs. FEINSTEIN, Ms. CANTWELL, Mr. HARKIN, Ms. MIKULSKI, Mr. INOUYE, Mr. AKAKA, Mr. LEVIN, Mr. KENNEDY, Mr. LEAHY, Mr. WYDEN, and Ms. STABENOW):

S. 20. A bill to expand access to preventive health care services that help reduce unintended pregnancy, reduce the number of abortions, and improve access to women’s health care; to the Committee on Health, Education, Labor, and Pensions.

Mr. REID. Mr. President, 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. 20

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Prevention First Act”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Title I—Title X of Public Health Service Act
Sec. 101. Short title.
Sec. 102. Authorization of appropriations.
Title II—Family Planning State Empowerment
Sec. 201. Short title.
Sec. 202. State option to provide family planning services and supplies to additional low-income individuals.
Sec. 203. State option to extend the period of eligibility for provision of family planning services and supplies.
Title III—Equity in Prescription Insurance and Contraceptive Coverage
Sec. 301. Short title.
Sec. 303. Amendments to Public Health Service Act relating to the group market.
Sec. 304. Amendment to Public Health Service Act relating to the individual market.
Title IV—Emergency Contraception Education and Information
Sec. 401. Short title.
Sec. 402. Emergency contraception education and information programs.
Title V—Compassionate Assistance for Rape Emergencies
Sec. 501. Short title.
Sec. 502. Survivors of sexual assault; provision by hospitals of emergency contraceptives without charge.
Title VI—Teenage Pregnancy Prevention
Sec. 601. Short title.
Sec. 602. Teenage pregnancy prevention.
Title VII—Accuracy of Contraceptive Information
Sec. 701. Short title.
Sec. 702. Accuracy of contraceptive information.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Although the Centers for Disease Control and Prevention (referred to in this section as the “CDC”) included family planning in its published list of the Ten Great Public Health Achievements in the 20th Century, the United States still has one of the highest rates of unintended pregnancies among industrialized nations.

(2) Each year, 3,000,000 pregnancies, nearly half of all pregnancies, in the United States are unintended, and nearly half of unintended pregnancies end in abortion.

(3) In 2002, 2,900,000 pregnancies, nearly half of all pregnancies, in the United States were unintended, and nearly half of unintended pregnancies end in abortion.

(4) The United States also has the highest rate of infection with sexually transmitted diseases of any industrialized country. In 2003 there were approximately 19,000,000 new cases of sexually transmitted diseases. According to the CDC (November 2004), these sexually transmitted diseases impose a tremendous economic burden with direct medical costs as high as $15,500,000,000 per year.
(5) Increasing access to family planning services will improve women’s health and reduce the rates of unintended pregnancy, abortion, and infection with sexually transmitted diseases, saving public health dollars. Every dollar spent on providing family planning services saves an estimated $3 in expenditures for pregnancy-related and newborn care for Medicaid alone.

(6) Contraception is basic health care that improves the health of women and children by enabling women to plan and space births.

(7) Failing to plan unintended pregnancies are at greater risk for physical abuse and women having closely spaced births are at greater risk of maternal death.

(8) The child born from an unintended pregnancy is at greater risk of low birth weight, dying in the first year of life, being abused, and not receiving sufficient resources for healthy development.

(9) The ability to control fertility also allows couples to achieve economic stability by facilitating greater educational achievement and participation in the workforce.

(10) The average American woman desires two children and spends five years of her life pregnant or trying to get pregnant and roughly 30 years trying to prevent pregnancy. Contraception, a sexually active woman has an 85 percent chance of becoming pregnant within a year.

(11) Nineteen percent of sexually active women ages 15 through 44 who were not using contraception increased from 5.4 percent to 7.4 percent in 2002, an increase of 37 percent, according to the CDC. This represents an apparent increase in 1,340,000 women and could raise the rate of unintended pregnancy.

(12) Millions of low-income women cannot afford to purchase contraceptive services and supplies on their own. 12,100,000 or 20 percent of all women ages 15 through 44 were uninsured in 2002, and that proportion has increased by 10 percent since 1999.

(13) Public health programs like Medicaid and title X of the Public Health Service Act, the national family planning program, provide high-quality family planning services and other preventive health care to uninsured or uninsured individuals who may otherwise lack access to health care.

(14) Medicaid is the single largest source of public funding for family planning services and HIV/AIDS care in the United States. Half of all federal dollars spent on contraceptive services and supplies in the United States are provided through Medicaid and approximately 5,500,000 women of reproductive age ages 15 and 44 rely on Medicaid for their basic health care needs.

(15) Each year, title X services enable American women to obtain approximately 1,000,000 unintended pregnancies, and one in three women of reproductive age who obtains testing or treatment for sexually transmitted diseases (STDs) through Title X-funded clinics in 2003, title X-funded clinics provided 2,800,000 Pap tests, 5,100,000 sexually transmitted disease tests, and 526,000 HIV tests.

(16) One third of uninsured, stagnant funding, health care inflation, new and expensive contraceptive technologies, and improved but expensive screening and treatments of common and newly transmitted diseases, have diminished the ability of title X funded clinics to adequately serve all those in need. Taking inflation into consideration for the title X program declined by 58 percent between 1980 and 2003.

(17) While Medicaid remains the largest source of family planning services, States are facing significant budgetary pressures to cut their Medicaid programs, putting many women at risk of losing coverage for family planning services.

(18) In addition, eligibility for Medicaid in many States is severely restricted leaving many federal Medicaid family planning waivers that allow the use of contraceptives and condoms for Medicaid family planning services. However, the administrative burden of applying for a waiver pose a significant barrier to States that would like to expand the coverage of family planning programs through Medicaid.

(19) As of January of 2005, 21 States offered expanded family planning benefits as a result of Medicaid family planning waivers. The cost-effectiveness of these waivers was affirmed by a recent evaluation funded by the Centers for Medicaid. This evaluation of six waivers found that all such programs resulted in significant savings to both the Federal and State governments. Moreover, the researchers found measurable reductions in unintended pregnancy.

(20) Although employer-sponsored health plans have improved coverage of contraceptive services and supplies, largely in response to State contraceptive coverage laws, there is still significant room for improvement. The ongoing lack of coverage in health plans, the uninsured and individual plans, continues to place effective forms of contraception beyond the financial reach of many women.

(21) Including contraceptive coverage in private health care plans saves employers money. Not covering contraceptives in employee health plans costs employers 15 to 17 percent more than providing such coverage.

(22) Approved for use by the Food and Drug Administration, emergency contraception is a safe and effective way to prevent unintended pregnancy after unprotected sex. It is estimated that the use of emergency contraception could cut the number of unintended pregnancies in half, thereby reducing the need for abortion. New research confirms that easier access to emergency contraceptives not does not increase sexual risk-taking or sexually transmitted diseases.

(23) In 2000, 51,000 abortions were prevented by the use of emergency contraception. Increased use of emergency contraception accounted for nearly half of the total decline in abortions between 1994 and 2000.

(24) A February 2004 CDC study of declining birth and pregnancy rates among teens concluded that the reduction in teen pregnancy between 1991 and 2001 suggests that increased abstinence and increased use of contraceptives accounted for the decline. As such, it is critically important that teens receive accurate, unbiased information about contraception.

(25) Thirty percent of all teens give birth before age 20. 88 percent of births to teens age 17 or younger were unintended. 24 percent of Hispanic females gave birth before the age of 20.

(26) The American Medical Association, the American Nurses Association, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American Public Health Association, and the Society for Adolescent Medicine, support responsible sexuality education that includes information about both abstinence and contraception.

(27) Teens who receive sex education that includes discussion of contraception are significantly less likely to receive abstinence-only messages to delay sex and to have fewer partners and use contraceptives when they do become sexually active.

(28) Contraceptive-only programs are precluded from discussing contraception except to talk about failure rates.

A December 2004 review of federally funded abstinence-only programs by the United States House of Representatives Committee on Government Reform (Minority Staff) found that a majority of federally funded abstinence-only program curricula distort public health data and misrepresent the effectiveness of contraception. Information on the effectiveness of preventing pregnancy and sexually transmitted diseases, including HIV, was often highly inaccurate.

TITLE I—PUBLIC HEALTH SERVICES ACT

SEC. 101. SHORT TITLE.

This Act may be cited as the ‘‘Title X Family Planning Services Act of 2003’’.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

There is authorized for the purpose of carrying out this Act under section 1001 of the Public Health Service Act, there are authorized to be appropriated $643,000,000 for fiscal year 2006, and such sums as may be necessary for each subsequent fiscal year.

TITLE II—FAMILY PLANNING STATE EMPOWERMENT

SEC. 201. SHORT TITLE.

This Act may be cited as the ‘‘Family Planning State Empowerment Act’’.

SEC. 202. STATE OPTION TO PROVIDE FAMILY PLANNING SERVICES AND SUPPLIES TO ADDITIONAL LOW-INCOME INDIVIDUALS.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) by redesignating section 1905(a)(4)(C) available to any individual not otherwise eligible for such assistance as 1905(a)(4)(D); and

(2) by inserting after section 1935 the following:

‘‘SEC. 1935.‘‘(a) IN GENERAL.—A State may elect (through a State plan amendment) to make medical assistance described in section 1905(a)(4)(C) available to any individual not otherwise eligible for such assistance—

‘‘(1) whose family income does not exceed an income level (specified by the State) that does not exceed the greatest of—

‘‘(A) 200 percent of the income official poverty line (as defined by the Office of Management and Budget) in accordance with section 637(c));

‘‘(B) in the case of a State that has in effect (as of the date of the enactment of this section) a waiver under section 1115 to provide such medical assistance to individuals based on their income level (expressed as a percent of the poverty line), the eligibility income level as provided under such waiver; or

‘‘(C) the eligibility income level (expressed as a percent of poverty line) that has been specified under the plan (including under section 1902(v)(2)), for eligibility of pregnant women for medical assistance; and

‘‘(2) at the option of the State, whose resources do not exceed a resource level specified by the State, which level is not more restrictive than the resource level applicable under the waiver described in paragraph (1)(B) or to pregnant women under paragraph (1)(C).’’

(b) FLEXIBILITY.—A State may exercise the authority under subsection (a) with respect to one or more classes of individuals described in such subsection.

(c) CONFORMING AMENDMENT.—Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended, in the matter before paragraph (1), by striking ‘‘and’’ at the end of clause (xii).
(2) by adding "and" at the end of clause (xiii); and
(3) by inserting after clause (xiii) the following new clause:
"(xiv) individual to be described in section 1905, but only with respect to items and services described in paragraph (4)(C)."

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance provided on and after October 1, 2005.

SEC. 203. STATE OPTION TO EXTEND THE PERIOD OF ELIGIBILITY FOR PROVISION OF FAMILY PLANNING SERVICES AND SUPPLIES.

(a) IN GENERAL.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end of the following paragraph:
"(1) the option of a State, the State plan may provide that, in the case of an individual who is eligible for medical assistance described in section 1905(a)(4)(C), but who no longer qualifies for such assistance because of an increase in income or resources or because of the expiration of a post-partum period, the individual may remain eligible for such assistance for such period as the State may specify, but the period of extended eligibility under this paragraph shall not exceed a continuous period of 24 months for any individual. The State may apply the previous sentence to one or more classes of individuals and may vary the period of extended eligibility with respect to different classes of individuals.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance provided on and after October 1, 2005.

TITLE III—EQUITY IN PRESCRIPTION INSURANCE AND CONTRACEPTIVE COVERAGE

SEC. 301. SHORT TITLE.

This Act may be cited as the "Equity in Prescription Insurance and Contraceptive Coverage Act".

SEC. 302. AMENDMENTS TO EMPLOYEES RETIREMENT INCOME SECURITY ACT OF 1974.

(a) In General.—Subpart 2 of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1105 et seq.) is amended by adding at the end the following:

SEC. 714. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance in connection with a group health plan, may not—

(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutes by the Food and Drug Administration, in accordance with the requirements of this Act;

(2) exclude or restrict benefits for outpatient contraceptive services if such plan or coverage provides benefits for other outpatient prescription drugs or devices; or

(3) require individuals to pay deductibles, coinsurance, or other cost-sharing or limitation for any such benefit.

(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual’s or enrollee’s use or potential use of items or services that are covered in accordance with the requirements of this Act;

(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this Act;

(3) penalize or otherwise reduce or limit the reimbursement of a health care professional who may prescribe such drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this Act;

(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from a covered individual contraceptive drugs or devices, or provided contraceptive services, described in subsection (a); or

(c) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section shall be construed—

(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of a health care professional who may prescribe such drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this Act;

(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from a covered individual contraceptive drugs or devices, or provided contraceptive services, described in subsection (a); or

(5) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section shall be construed—

SEC. 303. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutes by the Food and Drug Administration, in accordance with the requirements of this Act;

(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this Act;

(3) penalize or otherwise reduce or limit the reimbursement of a health care professional who may prescribe such drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this Act;

(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from a covered individual contraceptive drugs or devices, or provided contraceptive services, described in subsection (a); or

(5) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section shall be construed—

SEC. 2707. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutes by the Food and Drug Administration, in accordance with the requirements of this Act;

(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this Act;

(3) penalize or otherwise reduce or limit the reimbursement of a health care professional who may prescribe such drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this Act;

(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from a covered individual contraceptive drugs or devices, or provided contraceptive services, described in subsection (a); or

(5) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section shall be construed—

January 24, 2005
SEC. 304. AMENDMENT TO PUBLIC HEALTH SERV-
ICE ACT RELATING TO THE INDIVIDUAL MARKET.

(a) In General.—Part II of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subsection (re-
   lating to other requirements) as subsection 2; and

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

   **SEC. 2753. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.**

   "The provisions of section 2707 shall apply to
   health insurance coverage offered by a health
   insurance issuer in the individual market in the
   same manner as they apply to health insurance
   coverage offered by a health insurance issuer
   in connection with a group health plan in the
   small or large group market."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with
   respect to the coverage of such services, utilization review provisions, and
   limits on the volume of prescription drugs or
   professionals that may prescribe such drugs
   under the plan or coverage, except that such a deductible, coinsurance, or other
   cost-sharing or limitation for any such service shall be consistent with those imposed for
   other outpatient prescription drugs otherwise covered under the plan or coverage.

SEC. 401. SHORT TITLE.

This Act may be cited as the “Emergency
Contraception Education and Information
Act.”

SEC. 402. EMERGENCY CONTRACEPTION EDU-
CATION AND INFORMATION PROGRAMS.

(a) DEFINITIONS.—For purposes of this sec-

(1) Emergency contraception.—The term "emergency contraception" means a drug or device (as the terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) or a drug regimen that is—

(A) used after sexual relations;

(B) prevents pregnancy; by preventing ovula-
   tion, fertilization of an egg; or implanta-
   tion of an egg in a uterus; and

(C) approved by the Food and Drug Admin-
   istration.

(2) Health care provider.—The term "health care provider" means an individual who is operating within the scope of such license.

(3) Institution of higher education.—The term "institution of higher education" has the same meaning given such term in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1141a).

(4) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(b) EMERGENCY CONTRACEPTION PUBLIC
   EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Dis-
   ease Control and Prevention, shall develop and disseminate to the public information on emergency contraception.

(2) DISSEMINATION.—The Secretary may disseminate information under paragraph (1) directly or through agreements with non-
   profit organizations, consumer groups, institu-
   tions of higher education, Federal, State, or local agencies, clinics and the media.

(c) INFORMATION.—The information dis-
   seminated under paragraph (1) shall include, at a minimum, a description of emergency contraception, and an explanation of the use, safety, efficacy, and availability of such con-
   traceptive.

(d) EMERGENCY CONTRACEPTION INFOR-
   MATION PROGRAM FOR HEALTH CARE PRO-
   VIDERS.—

(1) IN GENERAL.—The Secretary, acting through the Administrator of the Health Re-
   sources and Services Administration and in consultation with major medical and public
   health organizations, shall develop and dis-
   seminate to health care providers informa-
   tion on emergency contraception.

(e) INFORMATION.—The information dis-
   seminated under paragraph (1) shall include, at a minimum—

(A) information describing the use, safety, efficacy, and availability of emergency con-
   traception;

(B) a recommendation regarding the use of such contraception in appropriate cases; and

(C) information explaining how to obtain copies of the information developed under
   subsection (b), for distribution to the pa-
   tients of the providers.

(f) DEFINITION.—The term "emergency contraception" means a drug, drug regimen, or device that is—

(A) used postcoitally;

(B) prevents pregnancy by delaying ovula-
   tion, preventing fertilization of an egg, or
   preventing implantation of an egg in a uter-
   us; and

(C) is approved by the Food and Drug Admin-
   istration.

(g) FEDERAL FUNDS.—The Federal funds may not be
   used to develop or disseminate emergency contraception information to health care providers, unless such information—

(1) is in clear and concise lan-
   guage, is readily comprehensible, and meets the
   requirements of section 300gg–1 of the Federal
   Food, Drug, and Cosmetic Act (21 U.S.C. 321);

(2) is provided in clean, concise, and idiomatic lan-
   guage, in plain English;

(3) is free from technical language;

(4) is free from jargon;

(5) is free from sexist language;

(6) is set forth in a narrative format; and

(7) is presented in a manner that promotes under-
   standing.

(h) COMPLIANCE.—Each health insurance issuer shall comply with the notice re-
   quirement of section 300gg–2 with respect to
   health care services and information sources and Services Administration and in

SEC. 501. SHORT TITLE.

This Act may be cited as the “Compassionate Assistance for Rape Emergencies Act.”

SEC. 502. SURVIVORS OF SEXUAL ASSAULT: PRO-
VISON BY HOSPITALS OF EMERGENCY CONTRACEPTIVES WITHOUT CHARGE.

(a) IN GENERAL.—Federal funds may not be
   provided to a hospital under any health-relat-
   ed program, unless the hospital meets the condi-
   tions specified in subsection (b) in the case of—

(1) any woman who presents at the hospital or
   whose family lives in the hospital and states that she is a victim of sexual as-
   sault, or is accompanied by someone who
   states she is a victim of sexual assault; and

(2) any woman who presents at the hospital
   whom hospital personnel have reason to be-
   lieve is a victim of sexual assault.

(b) ASSISTANCE FOR VICTIMS.—The condi-
   tions specified in subsection (a) of this section shall apply with respect to
   contraceptive services, utilization review provisions, and limits on the volume of prescription drugs or
   devices that may be obtained on the basis of a
   single consultation with a professional; or

(C) in the case of an outpatient contra-
   ceptive service, restricting the type of health care professionals that may provide
   such services, utilization review provisions, and limits on the volume of prescription drugs or
   devices that may be obtained on the basis of a
   single consultation with a professional; or

(2) the hospital promptly offers emergency
   contraception to the woman, and promptly
   provides such contraception to her upon her
   request.

(3) The information provided pursuant to
   paragraph (1) is in clear and concise lan-
   guage, is readily comprehensible, and meets such conditions regarding the provision of the
   information in languages other than English as the Secretary may establish.

(4) The services described in paragraphs (1)
   through (3) are not denied because of the in-
   ability of the woman or her family to pay for
   the services.

(c) DEFINITIONS.—For purposes of this sec-

(1) The term “emergency contraception” means a drug, drug regimen, or device that is—

(A) used postcoitally;

(B) prevents pregnancy by delaying ovula-
   tion, preventing fertilization of an egg, or
   preventing implantation of an egg in a uter-
   us; and

(C) is approved by the Food and Drug Admin-
   istration.

(2) The term “hospital” has the meaning given
   such term in title XVIII of the Social Secu-
   rity Act, as applicable in such title for purposes of making pay-
   ments for emergency services to hospitals

SEC. 304. AMENDMENT TO PUBLIC HEALTH SERV-
ICE ACT RELATING TO THE INDIVIDUAL MARKET.

(a) In General.—Part II of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subsection (re-
   lating to other requirements) as subsection 2; and

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

   **SEC. 2753. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.**

   "The provisions of section 2707 shall apply to
   health insurance coverage offered by a health
   insurance issuer in the individual market in the
   same manner as they apply to health insurance
   coverage offered by a health insurance issuer
   in connection with a group health plan in the
   small or large group market."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to the coverage of such services, utilization review provisions, and limits on the volume of prescription drugs or

(c) Compliance.—Each health insurance issuer shall comply with the notice re-

(1) by redesignating the first subsection (re-
   lating to other requirements) as subsection 2; and

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

   **SEC. 2753. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.**

   "The provisions of section 2707 shall apply to
   health insurance coverage offered by a health
   insurance issuer in the individual market in the
   same manner as they apply to health insurance
   coverage offered by a health insurance issuer
   in connection with a group health plan in the
   small or large group

SEC. 401. SHORT TITLE.

This Act may be cited as the “Emergency
Contraception Education and Information
Act.”

SEC. 402. EMERGENCY CONTRACEPTION EDU-
CATION AND INFORMATION PROGRAMS.

(a) DEFINITIONS.—For purposes of this sec-

(1) Emergency contraception.—The term "emergency contraception" means a drug or device (as the terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) or a drug regimen that is—

(A) used after sexual relations;

(B) prevents pregnancy; by preventing ovula-
   tion, fertilization of an egg; or implanta-
   tion of an egg in a uterus; and

(C) approved by the Food and Drug Admin-
   istration.

(2) Health care provider.—The term "health care provider" means an individual who is operating within the scope of such license.

(3) Institution of higher education.—The term "institution of higher education" has the same meaning given such term in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1141a).

(4) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(b) EMERGENCY CONTRACEPTION PUBLIC
   EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Dis-
   ease Control and Prevention, shall develop and disseminate to the public information on emergency contraception.

(2) DISSEMINATION.—The Secretary may disseminate information under paragraph (1) directly or through agreements with non-
   profit organizations, consumer groups, institu-
   tions of higher education, Federal, State, or local agencies, clinics and the media.

(c) INFORMATION.—The information dis-
   seminated under paragraph (1) shall include, at a minimum, a description of emergency contraception, and an explanation of the use, safety, efficacy, and availability of such con-
"
that do not have agreements in effect under such title.

(3) The term “Secretary” means the Secretary of Health and Human Services.

(4) The term “assault” means an act in which the woman involved does not consent or lacks the legal capacity to consent.

(d) EFFECTIVE DATE; AGENCY CRITERIA.—

This section shall take effect upon the expiration of the 180-day period beginning on the date of enactment of this Act. Not later than 30 days prior to the expiration of such period, the Secretary shall publish in the Federal Register criteria for carrying out this section.

TITLE VI—TEENAGE PREGNANCY PREVENTION

SEC. 601. SHORT TITLE.

This title may be cited as the “Preventing Teen Pregnancy Act.”

SEC. 602. TEENAGE PREGNANCY PREVENTION.

Part P of title IV of the Public Health Service Act (42 U.S.C. 238d et seq.) is amended by inserting after section 399N the following section:

“SEC. 399N-1. TEENAGE PREGNANCY PREVENTION GRANTS.

“(a) AUTHORITY.—The Secretary may award grants on a competitive basis grants to public and private entities to establish or expand teenage pregnancy prevention programs.

“(b) GRANT RECIPIENTS.—Grant recipients under this section may include State and local governments; entities that provide antepartum counseling, educational, or informational services to pregnant women; community-based organizations; Indian tribes; and tribal agencies, schools, entities that provide after-school programs, and community and faith-based groups.

“(c) PRIORITY.—In selecting grant recipients under this section, the Secretary shall give—

“(1) highest priority to applicants seeking assistance for programs targeting communities or populations in which—

“(A) teenage pregnancy or birth rates are higher than the corresponding State average; or

“(B) teenage pregnancy or birth rates are increasing; and

“(2) priority to applicants seeking assistance for programs that—

“(A) will benefit underserved or at-risk populations such as young males and immigrants; or

“(B) will take advantage of other available resources and be coordinated with other programs that serve youth, such as workforce development and education programs;

“(d) USE OF FUNDS.—Funds received by an entity as a grant under this section shall be used for programs that—

“(1) replicate or substantially incorporate the elements of one or more teenage pregnancy prevention programs that have been proven on the basis of rigorous scientific research to delay sexual intercourse or sexual activity, increase condom or contraceptive use (without increasing sexual activity), or reduce teenage pregnancy; and

“(2) incorporate one or more of the following strategies for preventing teenage pregnancy: encouraging teenagers to delay sexual intercourse and use contraception; interventions for sexually active teenagers; preventive health services; youth development programs; service learning programs; and outreach programs;

“(e) COMPLETE INFORMATION.—Programs receiving funds under this section shall provide complete information on the use of funds, including the elements of the program that are funded.

“(f) RELATION TO ABSTINENCE-ONLY PROGRAMS.—Funds under this section are not intended to fund only abstinence-only education programs. Abstinence-only education programs that receive Federal funds through the Maternal and Child Health Block Grant, the Administration for Children and Families, the Adolescent Family Life Program, and any other program that uses the definition of ‘abstinence education’ found in section 510(b) of the Social Security Act are ineligible for funding.

“(g) APPLICATIONS.—Each entity seeking a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

“(h) MACHING FUNDS.—

“(1) IN GENERAL.—The Secretary may not award a grant to an applicant for a program under this section unless the applicant demonstrates that funds derived from non-Federal sources, at least 25 percent of the cost of the program.

“(2) APPLICANT’S SHARE.—The applicant’s share of the cost of a program shall be provided in cash or in kind.

“(i) SUPPLEMENTATION OF FUNDS.—An entity that receives funds as a grant under this section shall use the funds to supplement and not supplant funds that would otherwise be available to the entity for teenage pregnancy prevention.

“(j) EVALUATIONS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) conduct or provide for a rigorous evaluation of 10 programs for which a grant is awarded under this section; (B) collect basic data on each program for which a grant is awarded under this section; and

“(C) upon completion of the evaluations referred to in subparagraph (A), submit to the Congress a report that includes a detailed statement of the effectiveness of grants under this section.

“(2) COOPERATION BY GRANTORS.—Each grant recipient under this section shall provide such information and cooperation as may be required for an evaluation under paragraph (1).

“(k) DEFINITION.—For purposes of this section, the term ‘rigorous scientific research’ means based on a program evaluation that:

“(1) Measured impact on sexual or contraceptive behavior, pregnancy or childbearing;

“(2) Employed an experimental or quasi-experimental design with well-constructed and appropriate comparison groups.

“(3) Had a sample size large enough (at least 100 in the intervention and control group) and a follow-up interval long enough (at least six months) to draw valid conclusions about impact.

“(4) Authorized and appropriated.

“THERE are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 2006, and such sums as may be necessary for each subsequent fiscal year. In addition, there are authorized to be appropriated for evaluations under subsection (j) such sums as may be necessary for the fiscal year 2006 and each subsequent fiscal year.”.

TITLE VII—ACCURACY OF CONTRACEPTIVE INFORMATION

SEC. 701. SHORT TITLE.

This title may be cited as the “Truth in Contraceptive Information Act.”

SEC. 702. ACCURACY OF CONTRACEPTIVE INFORMATION.

Notwithstanding any other provision of law, any receipt of supplemental funds for the use of a contraceptive provided through any federally funded sex education, family life education, abstinence education, comprehensive health education, or character education program shall be medically accurate and shall include health benefits and failure rates relating to the use of such contraceptive.

By Mrs. HUTCHISON:

S. 24. A bill to establish an emergency reserve fund to provide timely financial assistance in response to domestic disasters and emergencies; to the Committee on the Budget.

Mrs. HUTCHISON. Mr. President, our nation has been challenged by the September 11 terrorist attack with its consequences. The September 11 terrorist attack has also demanded quick and efficient supplemental spending, or roughly $4.6 billion. This will be America’s rainy day fund— a savings account ready for almost any potential unforeseen domestic emergencies.

This account is not designed to eliminate the need for supplemental bills but rather lessen the need for them.

Last year, in supplemental spending alone, Congress spent $2.5 billion on direct relief in America. Domestic discretionary supplemental bills enacted in response to natural disasters, such as hurricanes and earthquakes, rose steadily through the 1990s. Federal Emergency Management Agency, 9/11, both domestic and non-natural disasters during the 1990s. Supporter’s of supplemental spending suggest it provides Congress flexibility to respond to emergencies and to priorities that did not receive the proper consideration during the budget cycle. While supplemental bills do offer flexibility, they are not always helpful for fiscal responsibility. Millions of dollars are put in emergency spending bills that are not subject to the normal appropriations process.

Supporters of supplemental spending suggest it provides Congress flexibility to respond to emergencies and to priorities that did not receive the proper consideration during the budget cycle. While supplemental bills do offer flexibility, they are not always helpful for fiscal responsibility. Millions of dollars are put in emergency spending bills that are not subject to the normal appropriations process.
emergencies will be, we can feel certain there will be something to which we will need to respond. Beyond the clear fiscal conservatism we need, I believe this rainy day fund would reduce the time it takes to respond to emergencies by giving Congress a more efficient, less political process. My bill would require the contingency fund to be expended before supplemental spending for domestic disasters can be pursued, with the exclusion of defense spending.

As we move to be more fiscally responsible, our next step forward should be this account, from which the funds we draw upon are planned for and set aside through the normal appropriations process. Our current system regularly underfunds FEMA and other agencies for emergencies, and this should end.

As we prepare for the future, it is my goal that we save and prepare for the vital needs of our people should there be a national emergency. Recent events worldwide demand we be fiscally responsible and procedurally capable of this, our most important duty, the protection and safe-keeping of the American people.

By Mr. CHAMBLISS:

S. 25. A bill to promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States; to the Committee on Finance.

Mr. CHAMBLISS. Mr. President, I rise today to introduce the Fair Tax Act of 2005. This bill will promote freedom, fairness, and economic opportunity by repealing the Federal income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax.

The Fair Tax, which offers a national sales tax as the primary source of Federal revenue, is a necessary piece of tax reform that, should it pass, will provide our Nation with the freedom to determine his or her own priorities and opportunities. Ronald Reagan once said, "I believe we really can, however, say that God did give mankind virtually unlimited gifts to invent, produce and create. And for that reason alone, it would be wrong for governments to devise a tax structure or economic system that suppresses and denies those gifts."

I couldn't agree more.

And as long as we continue to operate under our current skewed Tax Code, we will continue to suppress and deny these unlimited gifts to the American people, who would otherwise thrive boundlessly under the Fair Tax.

By Mrs. HUTCHISON (for herself, Mr. FRIST, Ms. CANTWELL, Mr. ENSEN, Mr. ALEXANDER, and Mr. CORNYN):

S. 27. A bill to amend the Internal Revenue Code of 1986 to make permanent the deduction of State and local general sales taxes; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce a bill to permanently correct an injustice in the tax code that has harmed citizens in many States of this great Nation.

State and local governments have various alternatives for raising revenue. Some levy income taxes, some use sales taxes, and others use a combination of the two. The citizens who pay State and local income taxes have been able to offset some of what they pay by receiving a deduction on their federal taxes. Before 1986, taxpayers also had the ability to deduct their sales taxes.

The philosophy behind these deductions is simple: people should not have to pay taxes on their taxes. The money that people must give to one level of government should not also be taxed by another level of government.

Unfortunately, citizens of some States were treated differently after 1986 when the deduction for State and local sales taxes was eliminated. This discriminated against those living in States, such as my home State of Texas, with no income taxes. It is important to remember the lack of an income tax does not mean citizens in these States do not pay State taxes; these taxes are simply collected differently.

It is unfair to give citizens from some States a deduction for the revenue they provide their State and local governments, while not doing the same for those living in other States. Federal tax law should not treat people differently on the basis of State residence and differing tax collection methods, and it should not provide an incentive for States to establish income taxes over sales taxes.

This discrepancy had a significant impact on Texas. According to the Texas Comptroller, the ability of taxpayers to deduct their sales taxes will lead to an additional $740 million staying in the hands of Texans each year, the creation of more than 16,500 new jobs, and the addition of $920 million in State economic activity.

Last year, we took an important step by reinstating a sales tax deduction. As a result, everyone now has the opportunity to deduct either their State and local income taxes or sales taxes. For the 55 million of us in the 7 States with a sales tax but no income tax, this means the tax code no longer discriminate. Under the new deduction, the new deduction is only in effect for 2004 and 2005. We must act to prevent the inequity from returning.

The legislation I am offering today will fix this problem for good by making the State and local sales tax deduction permanent. This will permanently end the discrimination suffered by my fellow Texans and citizens of other States who do not have the option of an income tax deduction.

The legislation is about reestablishing equity to the tax code and defending the important principle of eliminating taxes on taxes. I hope my fellow Senators will support this effort.

I ask unanimous consent that the test of the bill be printed in the Record.

Ms. CANTWELL. Mr. President, today I am joining my good friend the Senator from Texas, (Mrs. HUTCHISON), and the Senator from Tennessee, the Leader, Mr. SENATE, in legislation to permanently extend the State sales tax deduction. This bill aims to make permanent legislation that the Congress passed and the President signed into law last year on October 22, 2004 as a provision of the JOBS Act. It is a change to the tax code that I have worked to see enacted since coming to the U.S. Senate, and one I want to maintain.

The JOBS Act reconstituted, for a period of 2 years, the ability of taxpayers to deduct State and local sales taxes just as they would State and local income taxes. Residents of States such as Washington that do not have income
taxes, but have State sales taxes, had not been able to do this since the 1986.

Make no mistake about it: permanently extending the sales tax deduction is a tax cut for Washington State taxpayers, Such a cut will strengthen our economy and fundamentally restore basic tax fairness. When the Federal income tax was first imposed in 1913, Congress allowed taxpayers to deduct State and local sales so they would not be taxed on once at the State level and then, again, at the Federal level in the same calendar year.

In 1986, after 74 years of precedent, this tax equity abruptly ended. Taxpayers from States without income taxes were given a raw deal when Congress made a budgetary squeeze play and ended the tax deduction for State sales taxes.

For States like Washington, where sales tax revenues are nearly 60 percent of the State budget, the impact is immense. The first year alone, we have 18 years to for the Federal government to lift the tax deduction for State taxpayers in 2004 alone, is estimated to be $500 million.

Washington taxpayers waited 18 years to for the Federal government to correct the unique burden on them that amounts to requiring them to pay taxes twice on the same money. Now that the burden has been lifted for 2 years, with thanks to this body and the President, Washington taxpayers are now looking for—and must have—permanence in the tax code with regard to their ability to deduct State and local sales taxes from their Federal income tax.

As I mentioned, this issue has been a primary one for me on behalf of the people I serve. In fact, when I became a member of this body in the 107th Congress, one of my first legislative acts was to cosponsor sales tax deduction legislation that at the time was introduced by the former Senator from Tennessee, Mr. Thompson. In the 108th Congress, Senator Hutchison and I carried the banner as the lead sponsors of similar legislation, the core of which we saw enacted into law for a 2-year period.

I am here once again in the 109th Congress with the Senator from Texas, Mrs. Hutchinson, on the heels of a victory for a two-year reprieve for our constituents, looking, now, for permanent equity in the tax code. I look forward to continuing to work with Senator Hutchison, as well as Senator Frust and others, in moving this sales tax deduction legislation forward in the coming months.

Only by making the two-year law permanent will we be able to see it that taxpayers from Washington State, or any other State, are not unfairly singled out to pay higher taxes. I urge prompt action on this measure.

By Mrs. FEINSTEIN (for herself and Mr. LEAHY):

S. 29. A bill to amend title 18, United States Code, to limit the misuse of Social Security numbers, to establish criminal penalties for such misuse, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise on behalf of myself and Senator Leahy to introduce legislation to protect one of America's most valuable but vulnerable assets: Social Security numbers. This is the second Congress in a row that I have introduced this legislation, to restrict the sale and display of Social Security numbers.

We have made a New Year, and unfortunately we can say with certainty that it will be another year in which millions of Americans will be victimized by identity theft, a crime so often linked to unprotected Social Security numbers. It is my hope that Congress will finally approve this legislation this year. For the benefit of all Californians and of all Americans, the Senate needs to take this step, to stop those who would do us harm by taking our personal identities.

The goal of this bill is straightforward—to get Social Security numbers out of the public domain, so that identity thieves can't get them. Toward this goal, this bill will do the following:

The heart of this bill prohibits anyone from selling or displaying an individual's Social Security number to the public general without the individual's express consent. But in recognition that sometimes there are legitimate needs for Social Security numbers, the bill also makes exceptions. Perhaps the most important exception allows the sale of Social Security numbers between businesses, or between the government and businesses. The bill also makes exceptions for law enforcement, national security, compliance with other laws, and a few other areas.

Additionally, this bill prohibits government entities from displaying Social Security numbers on public records that are posted on the Internet or in other electronic media after the legislation's effective date. It also prohibits governments from printing Social Security numbers on government checks.

This bill also punishes people who fraudulently use Social Security numbers to obtain benefits that they do not deserve.

Finally, this law has teeth to enforce its provisions. It gives the Attorney General the authority to issue civil penalties of up to $5,000 for people who misuse Social Security numbers. It also creates a criminal penalty, of up to five years in prison, for anyone who obtains another person's Social Security number for the purpose of locating or identifying that individual with the intent to physically harm that person. And it lets the victims of identity theft sue in court to recover their losses from the person who causes it.

Mr. President, the need for this bill should be clear. Theft of a Social Security number can be especially dev- astating, because that piece of information has become a de facto universal identifier in American society.

Despite the widespread use of Social Security numbers, the General Accounting Office reported recently that "no single federal law regulates the overall use or restricts the disclosure of SSNs by governments." (Source: Social Security numbers: SSNs are Widely Used by Government and Could Be Better Protected, 2002) As a result, the use of Social Security numbers is regulated by an inconsistent and insuffi- cient patchwork of state and federal laws, that often leaves the numbers in plain view of the whole world.

One recent book on privacy in the United States documents how far the use of Social Security numbers has spread beyond its original purpose, when they were created in 1936, of tracking American workers' earnings and benefits. According to the book: "The SSN began to be used for military personnel, legally admitted aliens, anyone receiving or applying for fed- eral benefits, food stamp program eligibility, draft registration, and federal loans. State and local governments, as well as private sector entities such as schools and banks, began to use SSNs as well—for drivers' li- cense, birth certificates, organ dona- tion, jury selection, worker's compen- sation, occupational licenses, and marriage licenses." (Source: Daniel Solove and Marc Rotenberg, Information Privacy Law, Aspen Publishers, 2003, at page 447-48).

It isn't surprising, then, that the sale of Social Security numbers is proceeding at a furious pace. According to the GAO in a report that it released earlier this year, 'Internet-based informa- tion resellers whose Web sites we accessed also obtain SSNs from their customers and scour public records and other publicly available information to provide the information to persons willing to pay a fee.' (Source: Social Security numbers: The Enti- ties Routinely Obtain and Use SSNs, and Laws Limit the Disclosure of this Information (2004, Report Number GAO-04-11, on Highlights Page).

Governments also play a role in the widespread availability of Social Security numbers to the general public. According to another GAO report, issued just the other month in November 2004, 'State agencies in 41 States and the District of Columbia have made visible SSNs in at least one type of record.' (Source: Government Could Do More to Reduce Display in Public Records and on Identity Cards, (November 2004, Re- port Number GAO-05-59, on Highlights Page)“

"Only by making the two-year law permanent will we be able to see it that taxpayers from Washington State, or any other State, are not unfairly singled out to pay higher taxes. I urge prompt action on this measure."
For the past four years, the Federal Trade Commission has ranked identity theft as its top consumer complaint. When the new numbers for 2004 come out in early February, I will not be surprised if identity theft again ranks as the top complaint.

The most comprehensive survey of identity-theft victimization, a Federal Trade Commission report released in 2003, found that nearly 10 million Americans had been victimized by identity theft in the previous year. The California Office of Privacy Protection estimates that 1.1 million of those victims were Californians.

A separate FTC report found California had the second-highest rate of identity theft per capita in 2003, with the number of victims increasing by more than 28 percent from 2002.

For anyone still unconvinced about the need for this law, let me offer a few specific examples of identity theft.

In November, 2004, in my home state of California, a married couple—Antonio and Rose Espino—pleaded guilty after stealing the identities of over 1,000 victims, and also stealing more than $8.8 million in fraudulent unemployment benefits. They obtained employer payroll lists that included names and Social Security numbers. (Source: “San Joaquin couple plead guilty in identity-theft case,” Fresno Bee, November 29, 2004.)

In another case, Christopher Jones, a twenty-five-year-old employee at the University of North Carolina-Pembroke, stole approximately 3,000 Social Security numbers through his job, handing out towels and other equipment at the university gym, and then tried to sell them in blocks of 1,000 on eBay. He stated in his advertisement: “100 (one hundred Social Security # # #) available. Not the real deal—not real numbers. Identity Theft I Don’t Care Bid Starts at a Dollar a Piece USPS Money Orders only all Different.”


I personally first became aware of the need for a law to restrict the sale and display of Social Security numbers about eight years ago, when one of my staff members sat me down and downloaded my own Social Security Number from the Internet in a matter of minutes.

Unfortunately, Congress has done little to protect Social Security numbers since then. We still badly need a uniform law. Year after year, I have advocated and proposed such legislation that would restrict the public display and use of Social Security numbers.

In the 106th Congress, I introduced S. 2966.

In the 107th Congress, I introduced S. 848 and S. 3100.

In the 108th Congress, I introduced S. 228, S. 745, and S. 2801.

None of these bills moved. Today, I stand before you yet again, to introduce for the fifth time a bill to take steps that will make it more difficult for thieves to steal this precious resource. This issue does not concern Republican government or Democratic government; this is an issue of good government.

Last year, the President signed into law a bill that I helped to author, to increase penalties for those who steal the identities of others. But punishment is not enough. We need to stop identity theft from occurring in the first place. This information should have been under lock and key long ago. It is time for us to act. Thank you Mr. President.

I ask for unanimous consent that the text of the legislation directly follow this statement in the Record.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Social Security Number Misuse Prevention Act.”

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

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Congress makes the following findings:

(1) The inappropriate display, sale, or purchase of Social Security numbers has contributed to a growing rate of illegal activities, including fraud, identity theft, and, in some cases, stalking and other violent crimes.

(2) Federal Government health care providers, and other entities have often used social security numbers to confirm the identity of an individual, the general display to the public, sale, or purchase of these numbers has been used to commit crimes, and also can result in serious invasions of individual privacy.

(3) The Federal Government requires virtually every individual in the United States to obtain and maintain a social security number in order to pay taxes, to qualify for social security benefits, and to seek employment. An unintended consequence of these requirements is that social security numbers have become one of the tools that can be used to facilitate crime, fraud, and invasions of the privacy of the individuals to whom the numbers are assigned. Because the Federal Government created and maintains this system, and because the Federal Government does not permit individuals to exempt themselves from those requirements, it is appropriate for the Federal Government to take steps to stem the abuse of social security numbers.

(4) The display, sale, or purchase of social security numbers in no way facilitates uninhibited, robust, and wide-open public debate, and restrictions on such display, sale, or purchase would not affect public debate.

(5) No one should award damages, such as lost wages, from the display, sale, or purchase of social security numbers in circumstances that create a substantial risk of physical, emotional, or financial harm to the individuals to whom those numbers are assigned.

(6) Consequently, this Act provides each individual that has been assigned a social security number some degree of protection from the display, sale, and purchase of that number in any circumstance that might facilitate unlawful conduct.

SEC. 2. FINDINGS.

(1) DISPLAY.—The term ‘display’ means to intentionally communicate or otherwise make available (on the Internet or in any other manner) to the general public an individual’s social security number.

(2) PERSON.—The term ‘person’ means any individual, partnership, corporation, trust, estate, cooperative, association, or any other entity.

(3) PURCHASE.—The term ‘purchase’ means providing directly or indirectly, anything of value in exchange for a social security number.

(4) SALE.—The term ‘sale’ means obtaining, directly or indirectly, anything of value in exchange for a social security number.

(5) STATE.—The term ‘State’ means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

(6) LIMITATION.—Except as provided in section 1028B, no person may display any individual’s social security number to the general public without the affirmatively expressed consent of the individual.

(7) LIMITATION ON SALE OR PURCHASE.—Except as otherwise provided in this section, no person may sell or purchase any individual’s social security number without the affirmatively expressed consent of the individual.

(8) PREREQUISITES FOR CONSENT.—In order for consent to exist under subsection (b) or (c), the person displaying or seeking to display, selling or attempting to sell, or purchasing or attempting to purchase, an individual’s social security number shall:

(1) inform the individual of the general purpose for which the number will be used, the types of persons to whom the number will be available, and the trans- actions permitted by the consent; and

(2) obtain the affirmatively expressed consent (electronically or in writing) of the individual.

(9) EXCEPTIONS.—Nothing in this section shall be construed to prohibit or limit the
display, sale, or purchase of a social security number—

(1) required, authorized, or excepted under any Federal law;

(2) for a public health purpose, including the protection of the health or safety of an individual in an emergency situation;

(3) for a national security purpose;

(4) for a commercial purpose including the investigation of fraud and the enforcement of a child support obligation;

(5) if the display, sale, or purchase of the number is for a use occurring as a result of an interaction between businesses, governments, or business and government (regardless of whether such entity initiates the interaction or the contact is not limited to such entity), including:

(A) the prevention of fraud (including fraud in protecting an employee’s right to employment benefits);

(B) the facilitation of credit checks or the facilitation of background checks of employees, prospective employees, or volunteers;

(C) the retrieval of other information from other businesses, commercial enterprises, governmental entities, or private non-profit organizations; or

(D) when the transmission of the number is incidental to a transaction that involves a Federal, State, or local entity, or a portion of a business;

(6) if the transfer of such a number is part of a data program involving a Federal, State, or local government, a sale, lease, franchising, or merger of all, or a portion of, a business;

(7) if such number is required to be submitted as part of the process for applying for any type of Federal, State, or local government benefit or program;

except that, nothing in this subsection shall be construed as permitting a professional or commercial user to display or sell a social security number to the general public;

(1) LIMITATION. Nothing in this section shall prohibit or limit the display, sale, or purchase of social security numbers as permitted under title V of the Gramm-Leach-Bliley Act, or for the purpose of affiliate sharing as permitted under the Fair Credit Reporting Act, except that no entity regulated under such Acts may make social security numbers available to the general public, as may be determined by the appropriate regulatory agency.

(2) CONFORMING AMENDMENT. The chapter analysis for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028B the following:

"1028B. Prohibition of the display, sale, or purchase of social security numbers”.

(b) STUDY; REPORT.—

(1) IN GENERAL.—The Attorney General shall conduct a study and prepare a report on all of the uses of social security numbers as permitted, required, authorized, or excepted under any Federal law. The report shall include a detailed description of the uses allowed as of the date of enactment of this Act, the impact of such uses on privacy and data security, and shall evaluate whether such uses should be continued or discontinued by appropriate legislative action.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall report to Congress findings under this subsection. The report shall include such recommendations for legislation based on criteria the Attorney General determines to be appropriate.

(c) Display, sale, or purchase of social security numbers—

The amendments made by this section shall take effect on the date that is 30 days after the date on which the final regulations promulgated under section 5 are published in the Federal Register.

SEC. 4. APPLICATION OF PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS TO PUBLIC RECORDS.

(a) PUBLIC RECORDS EXCEPTION.—

(1) IN GENERAL.—Section 1028A of title 18, United States Code (as amended by section 3(a)(1)), is amended by inserting after section 1028A the following:

*(4) for a law enforcement purpose, including, but not limited to—

(A) professional or occupational licenses.

(B) the facilitation of background checks of employees, prospective employees, or volunteers;

(C) the retrieval of other information from other businesses, commercial enterprises, governmental entities, or private non-profit organizations; and

(D) a review of the disadvantages or drawbacks of public records that contain social security numbers, including criminal activity, compromised personal privacy, or threats to homeland security;

(E) the costs and benefits for State and local governments of removing social security numbers from public records, including the current burdens of implementing procedures for removing social security numbers from public records; and

(2) when they appear on paper or on another non-electronic medium. If the Attorney General deems it appropriate, the Attorney General may issue regulations applying section 1028A to such records.

(b) STUDY AND REPORT ON SOCIAL SECURITY NUMBERS IN PUBLIC RECORDS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study and prepare a report on social security numbers in public records. In developing the report, the Comptroller General shall consult with the Administrative Office of the United States Courts, State and local governments that store, maintain, or disseminate public records, and other stakeholders, including members of the private sector that routinely use public records that contain social security numbers.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1). The report shall include a detailed description of the activities and results of the study and recommendations for legislative action as the Comptroller General considers appropriate. The report, at a minimum, shall include—

(A) a review of the uses of social security numbers in non-federal public records;

(B) a review of the number and extent of public records on which public records are stored (with separate reviews for both paper records and electronic records);

(C) a review of the advantages or utility of public records that contain social security numbers, including the utility for law enforcement, and for the promotion of homeland security;

(D) a review of the disadvantages or drawbacks of public records that contain social security numbers, including criminal activity, compromised personal privacy, or threats to homeland security;

(E) the costs and benefits for State and local governments of removing social security numbers from public records, including the current burdens of implementing procedures for removing social security numbers from public records; and
section shall be maintained under this section, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(II) NOTIFICATION.—With respect to an action described in subparagraph (I), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the same time as the State attorney general files the action.

(2) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(A) conduct investigations; or

(B) obtain such other relief as the court may deem necessary or advisable with respect to any action or proceeding under this section.

(3) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General for violation of a practice that is prohibited under this section, no State may, during the pendency of that action, institute an action under paragraph (1) against any defendant named in the complaint that action for violation of that practice.

(4) VENUE; SERVICE OF PROCESS.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(5) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(6) SUNSET.—This section shall not apply on or after the date that is 6 years after the effective date of this section.

(b) EVALUATION AND REPORT.—Not later than the date that is 6 years and 6 months after the date of enactment of this Act, the Attorney General, in consultation with the chairman of the Federal Trade Commission, shall issue a report evaluating the effectiveness and efficiency of section 1150A of the Social Security Act (42 U.S.C. 1391). The report shall be submitted to the Congress and shall—

(a) assess the benefits and costs to businesses, their customers, and the general public of prohibiting the display of social security numbers on public records (with separate consideration for both paper records and electronic records).

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to violations of section 208(a)(2)(C) of the Social Security Act (42 U.S.C. 406(c)(2)(C)(x)), as amended by paragraph (1), occurring after the date that is 3 years after the date of enactment of this Act.

(b) PROHIBITION OF INMATE ACCESS TO SOCIAL SECURITY ACCOUNT NUMBERS.—

(1) IN GENERAL.—Section 206(c)(2)(C) of the Social Security Act (42 U.S.C. 406(c)(2)(C)) (as amended by subsection (b)) is amended by adding at the end the following:

"(xii) No Federal, State, or local agency or business, or any other entity, shall permit, authorize, or allow an inmate to access a Social Security account number to effect, administer, or enforce the specific law, regulation, or contract to which such inmate is an inhabitant; or

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to violations of section 206(c)(2)(C)(x) of the Social Security Act (42 U.S.C. 406(c)(2)(C)(x)), as amended by paragraph (1), occurring after the date that is 3 years after the date of enactment of this Act.
SEC. 8. EXTENSION OF CIVIL MONETARY PENALTIES FOR MISUSE OF A SOCIAL SECURITY NUMBER.

(a) Treatment of Withholding of Material Fact.

(1) Civil Penalties.—The first sentence of section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

(A) by striking "who" and inserting "who—";

(B) by striking "makes" and all that follows through "shall be subject to" and inserting the following:

"(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;"

"(B) makes such a statement or representation for such use with knowing disregard for the truth; or"

"(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to;"

(C) by inserting "or each receipt of such benefits while withholding disclosure of such fact" after "each such statement or representation"; and

(D) by inserting "or because of such withholding of disclosure of a material fact" after "because of such statement or representation".

(b) Clarification of Treatment of Recovered Amounts.

(1) Section 1129(e)(1)(A) of the Social Security Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by redesignating the last sentence of paragraph (1) as paragraph (2) and inserting such paragraph after paragraph (1); and

(3) by inserting after paragraph (2) (as so redesignated) the following:

"(3) Any person (including an organization, agency, or other entity) who—

(A) uses a social security account number that such person knows or should know has been assigned by the Commissioner of Social Security (in an exercise of authority under section 205(c)(2) to maintain and maintain records) on the basis of false information furnished to the Commissioner by any person;"

"(B) falsely represents a number to be the social security account number assigned by the Commissioner of Social Security to any individual, when such person knows or should know that such number is not the social security account number assigned by the Commissioner to such individual;"

"(C) knowingly alters a social security card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;"

"(D) knowingly displays, sells, or purchases a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to display, purchase, or sell it;"

"(E) counterfeits a social security card, or possesses a counterfeited social security card with intent to display, sell, or purchase it;"

"(F) discloses, uses, compels the disclosure of, or knowingly displays, sells, or purchases the social security account number of any person in violation of the laws of the United States;"

"(G) with intent to deceive the Commissioner of Social Security as to such person's true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner with respect to any information required by the Commissioner in connection with the establishment and maintenance of the records provided for in section 205(c)(2);"

"(H) offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number; or"

"(1) being an officer or employee of a Federal, State, or local agency in possession of any social security account number, willfully acts or fails to act so as to cause a violation by such agency of clause (v) (I) or (x) of section 265(c)(2)(C), shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each violation. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such violation, of not more than twice the amount of any benefits or payments paid as a result of such violation.

(c) Clarification of Treatment of Recovered Amounts.—Section 1129(e)(2)(B) of the Social Security Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended—

(1) in paragraph (8), by inserting "or" after the semicolon; and

(2) by inserting after paragraph (8) the following:

"(9) Except as provided in subsections (e) and (f) of section 1028A of title 18, United States Code, knowingly and willfully displays, sells, or purchases (as those terms are defined in section 1028A(a)(1) of title 18, United States Code) any individual's social security account number without having met the prerequisites for consent under section 1028A(d) of title 18, United States Code; or

"(10) obtains any individual's social security number for the purpose of locating or identifying the individual with the intent to injure or to harm that individual, or to use the identity of that individual for an illegal purpose;"

SEC. 9. CRIMINAL PENALTIES FOR MISUSE OF A SOCIAL SECURITY NUMBER.

(a) Prohibition of Wrongful Use as Personal Identification Number.—No person may obtain any individual's social security number for purposes of locating or identifying an individual with the intent to physically injure, harm, or use the identity of the individual for any illegal purpose.

(b) Criminal Sanctions.—Section 280(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(1) by striking paragraph (8), by inserting "or" after the semicolon; and

(2) by inserting after paragraph (8) the following:

"(9) except as provided in subsections (e) and (f) of section 1028A of title 18, United States Code, knowingly and willfully displays, sells, or purchases (as those terms are defined in section 1028A(a)(1) of title 18, United States Code) any individual's social security account number without having met the prerequisites for consent under section 1028A(d) of title 18, United States Code; or

"(10) obtains any individual's social security number for the purpose of locating or identifying the individual with the intent to injure or to harm that individual, or to use the identity of that individual for an illegal purpose;"

SEC. 10. CIVIL ACTIONS AND CIVIL PENALTIES.

(a) Civil Action in State Courts.—

(1) In General.—Any individual aggrieved by an act of any person in violation of this Act or any amendments made by this Act may, if otherwise permitted by the laws or rules of the court of a State, bring in an appropriate court of that State—

(A) an action to enjoin such violation;

(B) an action to recover for actual monetary loss from such a violation, or to receive up to $500 in damages for each such violation, whichever is greater; or

(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented due care, reasonable procedures and procedures to effectively prevent violations of the regulations prescribed under this Act. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than twice the amount available under subparagraph (B).

(b) Statute of Limitations.—An action may be commenced under this subsection not later than the earlier of—

(A) 5 years after the date on which the alleged violation occurred; or

(B) 3 years after the date on which the alleged violation was reasonably discovered by the aggrieved individual.
(3) NONEXCLUSIVE REMEDY.—The remedy provided under this subsection shall be in addition to any other remedies available to the individual.

(4) CIVIL PENALTIES.—

(1) IN GENERAL.—Any person who the Attorney General determines has violated any section of this Act or of any amendments made by this Act shall be subject in addition to any other penalties that may be prescribed by law—

(A) to a civil penalty of not more than $5,000 for each violation; and

(B) to a civil penalty of not more than $50,000, if the violations have occurred with such frequency as to constitute a general business practice.

(2) DETERMINATION OF VIOLATIONS.—Any willful violation committed contemporaneously with respect to the social security numbers of 2 or more individuals by means of mail, telecommunication, or otherwise, shall be treated as a separate violation with respect to each such individual.

(3) ENFORCEMENT PROCEDURES.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a-7a), other than subsections (a), (b), (f), (h), (i), (j), (m), and (n) and the provisions of subsection (c) of such section, and the provisions of subsections (d) and (e) of section 205 of such Act (42 U.S.C. 405) shall apply to a civil penalty action brought under this section in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act (42 U.S.C. 1320a-7a)(a), except that, for purposes of any reference in such section 1128A of such Act (42 U.S.C. 1320a-7a) to the Secretary shall be deemed to be a reference to the Attorney General.

SEC. 11. FEDERAL INJUNCTIVE AUTHORITY.

In addition to any other enforcement authority conferred under this Act or the amendments made by this Act, the Federal Government may commence any proceeding with respect to any violation by a public entity of any provision of this Act or of any amendments made by this Act.

By Mr. SARBANES (for himself, Mr. CORZINE, Mrs. CLINTON, Mr. AKARA, Mr. BINGAMAN, Mr. SCHUMER, Mr. DODD, Mrs. BOXER, Ms. MIKULSKI, and Mr. RIVLIN)

S. 31. A bill to amend the Electronic Fund Transfer Act to extend certain consumer protections to international remittance transfers of funds originating in the United States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SARBANES. Mr. President, today I am introducing the International Remittance Consumer Protection Act of 2005. This legislation extends basic consumer protection rights to those who send remittances, and it creates new avenues and incentives for federally insured financial institutions to provide remittance and basic banking services to those who currently do not use such institutions to send remittances.

The practice of sending remittances is not new. Immigrants to the United States traditionally have used remittances to provide financial assistance to family members who remained in their country. But the practice has been largely overlooked; it has not been systematically studied and its implications have not been fully understood.

The 2000 census shows that 30 million people in this country are foreign-born—the largest number in our Nation’s history—and the vast majority of them—22 million are citizens or legal residents. More than 40 percent of the nation’s foreign-born population immigrated to the United States in the 1990s, and some 15.4 million, or more than half the immigrant community, have come from Latin American countries. Immigrants make a vital contribution to the economic and social life of our Nation.

In a recent study, Sending Money Home: Remittances to Latin America from the U.S., 2004, the Inter-American Development Bank, IADB, found that nationwide over 60 percent of Latin American immigrants send remittances. On average, each immigrant sends $240 at a time, 12 times per year. Although these individual transactions are not large, they have constituted an aggregate amount of over $30 billion from America to Latin American neighbors in this year alone alone.

In my State of Maryland, we have 175,000 immigrants from Latin America and the vast majority send remittances back home. According to the IADB’s study and to Maryland’s remittance to Latin America.

The subject of remittances has been a major interest of mine for some time. As chairman of the Banking Committee, in February, 2002, during the 107th Congress, I chaired what I understand was the first Congressional hearing devoted exclusively to this subject. Dr. Manuel Orozco, a leading researcher on remittances at the Inter-American Dialogue, told the Committee that remittances from the U.S. to Latin America have grown by $10 billion, or 50 percent, in just three years, and continued growth is expected.

That an estimated 15 percent to 20 percent of the money sent in remittances is diverted to fees and other transaction costs, often hidden from the remittance sender, is evidence of the abusive practices that exist in the remittance market. There are two primary factors that account for this abuse. First, studies have shown that people who send remittances tend to be relatively low-wage earners, with modest formal education and relatively little experience in dealing with this country’s complex system of financial institutions. As a result they are susceptible to providers who can take advantage of them by charging all sorts of exorbitant fees, which are often hidden or misrepresented.

The exchange rate conversion is often the mechanism for this abusive practice.

Second, remittances are currently not subject to the requirements set by Federal consumer protection law, including the disclosure of fees. There is no requirement that a remittance transfer provider disclose to the consumer the exchange rate fee that will be applied in the transaction. Without knowing the exchange rate that the company is charging, a consumer has little ability to gauge accurately the full cost of sending a remittance. As Sergio Bendixen, a leading researcher of public opinion and behavior, with a specialty among Hispanic consumers, testified before the Banking Committee: “an overwhelming majority of Hispanic immigrants are unaware that their families in Latin America receive less money than what they send from the United States.”

The legislation I am introducing today extends basic consumer rights to those who send remittances. Further, by requiring clear and understandable disclosures to the remittance sender of the cost of the remittance, thus presenting to the consumer the full cost of sending money, the legislation will enhance competition, which in turn should lead to an overall decrease in the cost of sending remittances. As Sergio Bendixen testified before the Banking Committee, “Full disclosure should unleash market forces that, hopefully, will result in a significant reduction in the cost of sending cash remittances.”

This legislation amends the Electronic Fund Transfer Act, which is the primary vehicle for providing basic protections to most consumers who engage in electronic transactions, to cover remittances, and to provide the basic rights associated with EFTA to remittance transactions. The two most important components of EFTA are the requirements for full disclosure of fees and the establishment of a process for the resolution of transactional errors.

These rights have been an integral part of the regulations that govern our banking infrastructure since EFTA’s enactment in 1978. The new legislation will build upon the success of EFTA by extending these basic rights to remittance senders.

The cornerstone of this legislation is the requirement that remittance transfer providers make three key disclosures to their consumers: One, the total cost of the remittance, represented in a single amount; two, the total amount of currency that will be sent to the designated recipient; and three, the promised date of delivery for the remittance.

These disclosures follow the core recommendations of the Inter-American Development Bank, which in its publication, Remittances to Latin America and the Caribbean: Goals and Recommendations,
states: “Remittance institutions should disclose in a fully transparent manner, complete information on total costs and transfer conditions, including all commissions and fees, foreign exchange rates applied and execution time.”

The total cost disclosure will include the cost of the exchange rate conversion as well as all up-front fees. This single item will both give consumers a more accurate representation of the cost of remitting funds and allow consumers to more effectively compare costs between remittance transfer providers.

In order to calculate the cost of the exchange rate conversion, which is part of the total cost, the legislation requires that the Treasury Department post on its website, on a daily basis, the exchange rate for all currencies. At present the Treasury receives this information on a daily basis, but posts it only on a quarterly basis on the Treasury website. By posting the information daily, the Treasury could create a uniform and credible source for exchange rate information.

To calculate the cost of the consumer of the exchange rate differential, remittance transfer providers will use the difference between the previous business day’s exchange rate, as posted on the Treasury website, and the exchange rate that the remittance transfer provider offers. Using the exchange rate posted by the Treasury, but not the exchange rate offered by the remittance transfer provider, the legislation requires that the exchange rate cost is calculated on a uniform base. When the exchange rate cost is disclosed to the consumer as part of the total cost of the remittance transfer, the consumer will be able to understand the full cost of the transaction and to shop between different remittance transfer providers.

In addition to fee disclosure requirements, this legislation establishes an error resolution mechanism for consumers whose remittance transactions experience an error have a fair, open, and expedient process through which they may resolve those errors with the institution that conducted the flawed transaction. This basic right is already afforded to consumers who are protected by EFTA, and now this right will be extended to cover consumers who send remittances as well. Further, the legislation establishes an error resolution mechanism for remittance transfer errors that is responsive to the different types of errors that can occur in a remittance transaction and is reflective of the unique characteristics of the remittance market and its participants.

Under this legislation, a consumer has one year from the date that the remittance transfer company promised to deliver the money to notify the company that an error has occurred. The company is then required to resolve the error within 60 days. To resolve the error, the company must either 1. refund the full amount of the remittance that was not properly transferred, 2. re-send that amount at no additional cost to the consumer or the designated recipient, or 3. demonstrate to the consumer that there was no error. The Federal Reserve Board is also granted the authority to establish additional remedies that cannot be addressed by the three specific remedies that are described in the legislation.

It is urgent that we continue to encourage efforts to bring those who send remittances into the financial mainstream. In his testimony to the Banking Committee, Dr. Orozco pointed out that, “About two-thirds of immigrants cash their salary checks in check cashing stores that charge exorbitant fees. Many of these same immigrants then use what remains of their income to send remittances back home.” In this common scenario, immigrants are penalized in both receiving and sending their earnings. In order to further the process of closing the loop, this legislation creates a uniform and credible source for exchange rate information.

In order to further promote the remittance market, the legislation requires that the Federal Reserve Board is also granted the authority to establish additional remedies that cannot be addressed by the three specific remedies that are described in the legislation.

Finally, I am acutely aware of the need for better and more broadly available financial literacy and education for all Americans. I am pleased to report that in the last Congress, as part of the reauthorization of the Fair Credit Reporting Act, we established a Presidential Financial Literacy and Education Commission, which is charged with developing a national strategy to promote financial literacy and education. The Act addresses the issue of remittances by including in the Commission’s work a focus on increasing the “awareness of the particular financial needs and financial transactions, such as the sending of remittances, of consumers who are targeted in multilingual financial literacy and education programs.” The legislation that I am introducing today builds on that framework by instructing the banking infrastructure to offer remittance services more easily and cheaply. It links the ACH system to countries that receive significant remittances has the potential to result in greater financial literacy and education for all Americans. I am pleased to report that in the last Congress, as part of the reauthorization of the Fair Credit Reporting Act, we established a Presidential Financial Literacy and Education Commission, which is charged with developing a national strategy to promote financial literacy and education. The Act addresses the issue of remittances by including in the Commission’s work a focus on increasing the “awareness of the particular financial needs and financial transactions, such as the sending of remittances, of consumers who are targeted in multilingual financial literacy and education programs.” The legislation that I am introducing today builds on that framework by instructing the banking infrastructure to offer remittance services more easily and cheaply.
and as a practical matter have no way of finding out, and, as a consequence, in the aggregate pay billions of dollars in costs and hidden fees. They do not have available to them an established procedure for resolving transactional errors. This legislation rectifies this situation by extending to remittances the basic consumer rights established in EFTA. The bill also contains provisions that, when implemented, will allow more insured financial institutions to provide remittance services and potentially at lower costs to consumers. The bill contains important provisions to help bring the unbanked—men and women without an account at a bank or credit union—into the financial mainstream. Taken together, these measures will increase transparency, competition and efficiency in the remittance market, while helping to bring more Americans into the financial mainstream.

A broad range of community, civil rights, and consumer groups have endorsed this legislation including the National Council of La Raza, the Mexican American Legal Defense and Educational Fund, the League of United Latin American Citizens, the Leadership Conference on Civil Rights, United Farm Workers of America, the Farmworker Justice Fund, the NAACP, Casa de Maryland, the National Federation of Filipino American Associations, the Asian Pacific American Labor Alliance, National Asian Pacific American Legal Consortium, Consumers Union, Consumer Federation of America, the National Community Reinvestment Coalition, the Center for Responsible Lending, U.S. PIRG, ACORN, Woodstock Institute, and the National Association of Consumer Advocates. The Credit Union National Association and the World Council of Credit Unions, both of whom provide remittance services, have also endorsed this legislation.

I ask unanimous consent that the text of International Remittance Consumer Protection Act be printed in the Record.

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

S. 31

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 "International Remittance Consumer Protection Act of 2005".

SEC. 2. TREATMENT OF REMITTANCE TRANSFERS.

(a) In General.—The Electronic Fund Transfer Act (15 U.S.C. 1601 et seq.) is amended—

(1) in section 902(b), by inserting "and remittance" after "electronic fund";

(2) by redesignating sections 918, 919, 920, and 921 as sections 918, 920, 921, and 922, respectively; and

(3) by inserting after section 917 the following:

"SEC. 3. REMITTANCE TRANSFERS.

"(a) Disclosures Required for Remittance Transfers.—

"(1) IN GENERAL.—Each remittance transfer provider shall make disclosures to consumers, as specified by this section and augmented by regulation of the Board.

"(2) SPECIALIZED REMITTANCE PROVIDER.—In addition to any other disclosures applicable under this title, a remittance transfer provider shall clearly and conspicuously disclose, in writing and in a form that the consumer may keep, to each consumer requesting a remittance transfer—

"(A) the time at which the consumer makes the request, and prior to the consumer making any payment in connection with the transfer;

"(B) the total amount of currency that will be required to be tendered by the consumer in connection with the remittance transfer; (c) the amount of currency that will be sent to the designated recipient of the remittance transfer, using the values of the currency into which the funds will be exchanged;

"(D) the total remittance transfer cost, identified as the "Total Cost"; and

"(E) an itemization of the charges included in clause (iii), as determined necessary by the Board;

"(F) at the time at which the consumer makes payment in connection with the remittance transfer, if any—

"(i) a receipt showing the promised date of delivery;

"(ii) the name and telephone number or address of the designated recipient; and

"(iii) a notice containing—

"(A) information about the rights of the consumer under this section to resolve errors; and

"(B) appropriate contact information for the remittance transfer provider and its State licensee, if applicable, or Federal or State regulator, as applicable.

"(3) EXEMPTION AUTHORITY.—The Board may, by rule, and subject to subsections (d)(3), permit a remittance transfer provider—

"(A) to satisfy the requirements of paragraphs (2)(A) to (2)(C) to the extent that the person, responsible for the purposes of any of the provisions referred to in subparagraph (A) or any regulations promulgated thereunder;

"(B) to cause any fund transfer that would not otherwise be treated as such under paragraph (2) to be treated as an electronic fund transfer, or as otherwise subject to this title, for the purposes of any of the provisions referred to in subparagraph (A) or any regulations promulgated thereunder;

"(C) to satisfy the requirements of sub-paragraphs (A) and (B) of paragraph (2) with a written disclosure, but only to the extent that the information provided in accordance with paragraph (2)(A) is accurate at the time at which payment is made in connection with the subject remittance transfer.

"(4) FOREIGN EXCHANGE RATES.—The disclosures required under this section shall be made in English and in the same language principally used by the remittance provider to advertise, solicit, or market, either orally or in writing, at that office, if other than English.

"(5) REMITTANCE TRANSFER ERRORS.—

"(A) IN GENERAL.—If a remittance transfer provider receives oral or written notice from the consumer within 90 days of the promised date of delivery that an error occurred with respect to a remittance transfer, including that the full amount of the funds to be credited was not made available to the designated recipient in the foreign country, the remittance transfer provider shall resolve the error pursuant to this subsection.

"(B) ERROR RESOLUTION.—The Board may, by rule, permit a remittance transfer provider to resolve the error pursuant to this subsection.

"(C) REMITTANCE TRANSFER COST.—

"(1) ERROR RESOLUTION.—

"(A) IN GENERAL.—Each remittance transfer provider shall make disclosures to consumers, as specified by this section and augmented by regulation of the Board.

"(ii) to the consumer the total amount of the funds transferred, including any fees or charges.

"(iii) the full amount of the funds to be credited by the remittance transfer provider to the designated recipient or to the consumer, the amount appropriate to resolve the error;

"(iv) provide such other remedy, as determined appropriate by rule of the Board for the protection of consumers; or

"(v) demonstrate to the consumer that there was no error.

"(2) RULES.—The Board shall establish, by rule, clear and appropriate standards for remittance transfer providers with respect to error resolution relating to remittance transfers, to protect consumers from such errors.

"(D) APPLICABILITY OF OTHER PROVISIONS OF LAW.

"(1) APPLICABILITY OF TITLE II AND TITLE XIII PROVISIONS.—A remittance transfer provider may only provide remittance transfers if such provider is in compliance with the requirements of section 5300 of title 31, United States Code, and section 1960 of title 18, United States Code, as applicable.

"(2) APPLICABILITY OF TITLE XVII.—A remittance transfer that is not an electronic fund transfer, as defined in section 903, shall be subject to any of sections 905 through 912. A remittance transfer that is an electronic fund transfer, as defined in section 903, shall be subject to all provisions of this title that are otherwise applicable to electronic fund transfers under this title.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

"(A) to affect the application to any transaction to any remittance transfer provider, or to any other person of any of the provisions of subchapter II of chapter 53 of title 31, United States Code, section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), or chapter 2 of title 1 of Public Law 91–508 (12 U.S.C. 1951–1959), or any regulations promulgated thereunder; or

"(B) to cause any fund transfer that would not otherwise be treated as such under paragraph (2) to be treated as an electronic fund transfer, or as otherwise subject to this title, for the purposes of any of the provisions referred to in subparagraph (A) or any regulations promulgated thereunder.

"(c) PUBLICATION OF EXCHANGE RATES.—The Secretary of the Treasury shall make available to the public in the electronic form, not later than noon on each business day, the dollar exchange rate for all foreign currencies, using any methodology that the Secretary determines appropriate, which may include the methodology used pursuant to section 613(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2363(b)).

"(d) AGENTS AND SUBSIDIARIES.—A remittance transfer provider shall be liable for violations of this title, and any agents or any subsidiary of that remittance transfer provider.

"(e) DEFINITIONS.—As used in this section—

"(1) the term 'exchange rate fee' means the difference between the total dollar amount transferred, valued at the exchange rate offered by the remittance transfer provider, and the total dollar amount transferred, valued at the exchange rate posted by the Secretary of the Treasury in accordance with clause (i) of section 508 (12 U.S.C. 1951–1959) prior to the initiation of the subject remittance transfer;

"(2) the term 'remittance transfer' means the electronic (as defined in section 508(2) of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7006(b))"
transfer of funds at the request of a consumer located in any State to a person in another country that is initiated by a remittance transfer provider, whether or not the consumer is an account holder of the remittance transfer provider or whether or not the remittance transfer is also an electronic fund transfer, as defined in section 918; 

(3) the term ‘remittance transfer provider’ means any person or financial institution that provides remittance transfers on behalf of consumers in the normal course of its business, whether or not the consumer is an account holder of that person or financial institution; 

(4) the term ‘State’ means any of the several States or any territory or possession of the United States; and 

(5) the term ‘total remittance transfer cost’ means the total cost of a remittance transfer expressed in dollars, including all fees charged by the remittance transfer provider, including the exchange rate fee."

(b) EFFECT ON STATE LAWS.—Section 919 of the Electronic Fund Transfer Act (12 U.S.C. 1858q) is amended by striking subsection (g) and inserting the following:

"(g) COMPLIANCE WITH requirements of the Board of Governors of the Federal Reserve System shall submit a report to the Board of Governors of the Federal Reserve System shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study conducted under this section.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and on April 30 biannually thereafter, the Board of Governors of the Federal Reserve System shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the status of the automated clearinghouse system and its progress in complying with the requirements of this section.

(d) NO COST OR LOW-COST basic consumer accounts, as well as agency services to remittance transfer providers."

(b) CONTENT OF GUIDELINES.—Guidelines provided to Federal financial institutions under this section shall include—

(1) information as to the methods of providing remittance transfer services; 

(2) the potential economic opportunities in providing low-cost remittance transfers; and 

(3) the potential value to financial institutions of broadening the financial bases to include persons that use remittance transfer services.

(c) ASSISTANCE TO FINANCIAL LITERACY COMMISSION.—The Comptroller General of the United States shall provide remittance transfer services to consumers.

SEC. 6. STUDY AND REPORT ON REMITTANCES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study and analysis of the remittance transfer system, including an analysis of its impact on consumers.

(b) AREAS OF CONSIDERATION.—The study conducted under this section shall include, to the extent that data is available:

(1) an estimate of the total amount, in dollars, transmitted from individuals in the United States to other countries, including per country data, historical data, and any available projections concerning future remittance levels;

(2) a comparison of the amount of remittance funds, in total and per country, to the amount of foreign trade, bilateral assistance, and multi-development bank programs involving each of the subject countries; 

(3) an analysis of methods used to remit the funds, with estimates of the amounts remitted through each method and descriptive statistics for each method, such as market share, median transaction size, and cost per transaction, including through

(A) depository institutions; 

(B) postal money orders and other money orders; 

(C) automatic teller machines; 

(D) wire transfer services; and 

(E) personal delivery services; 

(4) an analysis of advantages and disadvantages of each remitting method listed in subparagraphs (A) through (E) of paragraph (3); 

(5) an analysis of compliance with the specificity of the rules and regulations of disclosures made by various types of remittance transaction providers to consumers who send remittances; and 

(6) if reliable data are unavailable, recommendations concerning options for Congress to consider to improve the state of information on remittances from the United States.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study conducted under this section.

By Ms. CANTWELL (for herself, Mrs. MURKOWSKY, and Mr. FENNO): S. 33. A bill to prohibit energy market manipulation; to the Committee on Energy and Natural Resources.

Mr. President, today I am introducing the Electricity Needs Rules and Oversight Now, or ENRON, Act.

This legislation does two simple—but yet critical—things. The ENRON Act would amend the Federal Power Act to put in place a broad prohibition on all manipulative practices in electricity markets—rather than just round-trip trading—as included in last year’s comprehensive energy bill; and it would specify that electricity rates resulting from manipulative practices are not just and reasonable under the Federal Power Act.

Many of my colleagues are, by now, familiar with the provisions of this legislation, as I have often described the circumstances that led me to propose it. While the Senate has been considering comprehensive electricity legislation over the past few years, various investigations have unearthed Enron’s ‘smoking gun’ memos—detailing the company’s schemes to drive up electricity prices—and other evidence leading to the Federal Energy Regulatory Commission (FERC) to conclude that market manipulation was “epidemic” in Western markets during 2000-2001. Recently, even more information—in-the-clear audio recordings—of Enron traders’ conversations—has come to light. Meanwhile, the energy crisis continues to take a serious toll on American consumers and businesses: it’s been estimated that, as a result of the Western market loss, the West has lost $35 billion in domestic economic product—in other words, in a 1.5 percent decline in productivity and a total loss of 589,000 jobs. Adding insult to injury, Enron has now sued a number of utilities throughout the country—almost $25 billion for almost $1 billion in damages—scheming to collect penalty charges on inflated contracts, cancelled when the company went bankrupt. In essence, Enron is asking the same consumers it gouged to pay yet again.

As I have discussed on the Senate floor many times, the Western market meltdown of 2000-2001 has had a profound impact on my state’s economy, the pocketbooks and economic well-being of my constituents—too many of whom have had to make the choice between keeping their heat and lights on and buying food, paying rent, and purchasing prescription drugs. In some parts of Washington state, utility disconnection rates have risen more than 40 percent. People just can’t pay their utility bills.

As my colleagues can imagine, what we have seen and heard since the height of the crisis—as we have learned about the market manipulation and fraud that took place in the Western market, while Enron energy traders laughed about the plight of “Grandma Millie”—has added tremendous insult to substantial economic injury. Moreover, the Western market has been brought to the forefront a number of very important policy questions about the kind of behavior that will be tolerated in our Nation’s electricity markets, as the Federal Energy Regulatory Commission has continued to pursue its “restructuring” agenda.

I believe we need strong leadership that will condemn the types of schemes
used by Enron traders—manipulation tactics with infamous nicknames like Get Shorty, Death Star and Ricochet. We need to send a strong and unambiguous message that these practices will not be tolerated in our nation’s electricity markets. No one needs to agree on a matter of policy—that the victims of these schemes should not have to pay the inflated power prices resulting from market manipulation. The ENRON Act will make these commonsense principles the law of the land.

I would like to thank the original co-sponsors of this legislation, the Senator from New Mexico, Mr. Bingaman, the Senator from California, Mrs. Feinstein, the senior Senator from Washington, Mrs. Murray, and the junior Senator from Wisconsin, Mr. Feingold, for joining me today. It is our hope that the Senate will move toward swift passage of the ENRON Act.

Mr. President, I ask unanimous consent that a copy 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. 33

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 “Electricity Needs Rules and Oversight Now (ENRON) Act”.

SEC. 2. PROHIBITION OF ENERGY MARKET MANIPULATION.

(a) PROHIBITION.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

“SEC. 215. PROHIBITION OF MARKET MANIPULATION.

“It shall be unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance in contravention of such regulations as the Commission may promulgate as appropriate in the public interest or for the protection of electric rate-payers.”

(b) RATES RESULTING FROM MARKET MANIPULATION.—Section 263(a) of the Federal Power Act (16 U.S.C. 823(a)) is amended by inserting after “not just and reasonable” the following: “or that result from a manipulative or deceptive device or contrivance”.

Mr. President, I am proud to cosponsor the ENRON Act. This Regulatory Oversight Now or ENRON Act of 2005, S. 33, introduced today by Senator Cantwell. Last summer the release of audiotapes of Enron traders gloating about their ability to manipulate energy markets shocked the Nation. As more tapes surface and energy prices continue to rise, the need for the Senate to pass the ENRON Act has never been more clear.

A public utility near Seattle, which is trying to get back the money it lost to Enron’s unscrupulous energy trading practices, received the tapes from the Justice Department. These tapes confirm what we all suspected: Enron manipulated energy markets and gouged consumers. According to these tapes, Enron traders celebrated when a forest fire shut down a major transmission line into California in 2000. This shutdown cut power supplies and raised energy prices. An energy trader admitted: “Burn, baby, burn. That’s a beautiful thing.” These taped conversations also provide evidence that Enron made secret pacts with power producers, and Enron traders deliberately drove up prices by ordering power plants to shut down because they knew their ability to manipulate markets and steal money from the “grandmothers of California,” who one trader called “Grandma Millie.” The arrogance of these traders shocks the conscience. It also demonstrates the need for Congress to protect consumers from energy market manipulation. We cannot let the market abuses that took place during the Western energy crisis of 2000 happen again.

S. 2105 requires the Federal Energy Regulatory Commission to prohibit the use of manipulative practices like these that put at risk consumers and the reliability of the transmission grid. We learned from this crisis that electricity markets need close government oversight to ensure that companies do not engage in risky and deceptive trading schemes leading to soaring energy prices and their own possible financial failure. In both cases, consumers—the people who depend upon the electricity these companies generate or trade—are the losers.

The Senate recently went on record in support of barring abusive energy market practices when it approved an amendment to the fiscal year 2004 agricultural appropriations bill offered by Senator Cantwell. I am disappointed this language was stripped from the omnibus spending bill. These necessary protections were also omitted from the final energy conference report and the revised energy bill we voted on in April 2004.

We need to send a clear message to the energy industry that this behavior will not be tolerated, and we must show consumers that we will protect them from energy market manipulation. I encourage my fellow colleagues to pass this legislation.

By Mr. Lieberman:

S. 34. A bill to provide for the development of a global tsunami detection and warning system, to improve existing communication of tsunami warnings to all potentially affected nations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. LIEBERMAN. Mr. President, I rise today to introduce legislation that would close the gaps in our present tsunami warning system and establish a global network that will give all the nations of the world’s oceans a chance to evacuate—much like the hurricane and typhoon warning system works today across international boundaries.

Although the probability is slim, the United States, like all coastal nations, is vulnerable to tsunamis. The threat to the Pacific is greatest because of its relatively extensive seismic activity. But while the threat is less in the Atlantic, it also does exist. Tsunamis entered the last century struck coastal Newfoundland and regions of the Caribbean including Puerto Rico, and the U.S. Virgin Islands.

As events last month in the Indian Ocean have shown, a large tsunami can be catastrophic when it catches a coastal population unwarned and unprepared. Existing technology, however, can detect tsunamis and with the right forecasting models, be used to predict potential landfall of a tsunami and provide the warning needed for those in the path of the destructive waves.

The United States has been a leader in developing instrumentation for detecting tsunamis and developing forecasting models used for predicting tsunami landfall. Such technology is used in two existing tsunami warning centers, one in Alaska and one in Hawaii. The recent tsunami in South Asia has alerted the world to the dangers of these destructive waves and caused many of us to seek ways that the United States can help the world avoid such tragic loss again.

The legislation I am introducing today builds on the existing United States model. It authorizes funding that will enable us to expand our existing capabilities, completes our network of seismic and tsunami sensors, and directs us to work in partnership with other nations as needed to build additional centers and the necessary network for disseminating warnings to the appropriate local officials. Similar efforts are being put forth by Senators Stevens and Inouye as leaders of the Commerce Committee, and by the Administration. I look forward to working with them toward legislation, which, at relatively low cost, will allow us to partner with other nations and complete a global detection and warning system. This will help ensure that the kind of tragedy that befall the nations of the Indian Ocean region never happens again.

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. 34

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 “Global Tsunami Detection and Warning System Act of 2005”.

SEC. 2. DEVELOPMENT AND DEPLOYMENT OF TSUNAMI SENSORS.

(a) RESPONSIBILITIES OF SECRETARY OF COMMERCE.—The Secretary of Commerce shall—

(1) identify deficiencies in the existing system of worldwide seismic stations that can
identify in real or near real time potentially tsunamigenic earthquakes in any location in the Pacific, Atlantic, or Indian Oceans and associated seas;
(2) work with the Secretary of State to enlist international cooperation in deploying seismic sensors to eliminate such deficiencies;
(3) work with the Secretary of the Interior, through the Director of the United States Geological Survey to identify and implement any additions or improvements to the United States maintained network of seismic stations that are necessary to improve real time or near real time signal acquisition and processing capability for detection of potentially tsunamigenic events;
(4) identify tsunami sensors, such as those developed by the National Oceanic and Atmospheric Administration and deployed under its Deep Ocean Assessment and Report of Tsunamis Project, or other appropriate ocean-based sensors, that can be deployed to detect potential tsunamis generated by any type of disturbance, including earthquake, underwater landslide, above water landslide, eruption of an explosive volcano, and meteor impact;
(5) identify the number and location of such sensors that must be deployed throughout the Atlantic, Indian, and Pacific Oceans, and associated seas, and any other bodies of water that provide a system allowing complete global coverage for detection of a tsunami, taking into consideration and coordinating with any regional systems in place or under development through other nations in the affected regions;
(6) procure and deploy such sensors;
(7) establish the measurement system, forecast system, communication system and infrastructure needed to receive and process the signals generated by such tsunami sensors, by building on existing infrastructure at existing Centers of the National Oceanic and Atmospheric Administration, such as the Pacific Tsunami Warning Center and West Coast and Alaska Tsunami Center; and
(8) disseminate tsunami forecasts and warnings as necessary to all potentially affected nations.

(b) REQUIREMENT FOR STRATEGY.—The Secretary of Commerce, after consultation with the Secretary of State and the Secretary of the Interior, shall submit to Congress a report on the progress made in carrying out the requirements of subsection (a).

SEC. 3. INTERNATIONAL CONFERENCE ON GLOBAL TSUNAMI DETECTION AND WARNING SYSTEM.

(a) SENSE OF CONGRESS ON CONVENING CONFERENCE.—It is the sense of Congress that the President, in consultation with the leaders of nations described in section 4(a)(1), should undertake to convene, within 180 days after the date of the enactment of this Act, an international conference on global tsunami detection and warning for the purposes of—
(1) supporting the common objective of such nations of preventing or reducing the toll of human loss from future tsunami-related natural disasters in the Pacific, Indian, and Atlantic Oceans and associated seas; and
(2) seeking international agreement on the most effective means for deploying and funding a global tsunami detection and warning system.

(b) SENSE OF CONGRESS ON ALTERNATIVE ACTIVITY.—It is the sense of Congress that a conference described in subsection (a) would not be necessary if, as determined by the President after consultation with the Secretary of Commerce, the Secretary of State, and the Secretary of the Interior, satisfactory international agreement as described in paragraph (2) of that subsection has been reached within 90 days after the date of the enactment of this Act.

SEC. 4. NETWORK OF NATIONS POTENTIALLY AFFECTED BY TSUNAMIS.

(a) REQUIREMENT FOR STRATEGY.—The Secretary of Commerce, after consultation with the Secretary of the Treasury, shall prepare and implement a comprehensive strategy to achieve the following objectives:
(1) Identify instruments that have the potential to be adversely affected by tsunamis, particularly the nations that border the Pacific, Indian, and Atlantic Oceans, and associated seas;
(2) Identify appropriate organizations, agencies, and contacts within the governments of such nations of preventing or reducing the impact of tsunamis.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Commerce shall submit to Congress a report on the strategy required under subsection (a). The report shall include the following:
(1) The strategy.
(2) The progress made on implementing the strategy.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated to carry out this Act as follows:
(1) For fiscal year 2005, $30,000,000.
(2) For each of fiscal years 2006 through 2014, $7,500,000.

By Mr. CONRAD—S. 35. A bill to amend the Internal Revenue Code of 1986 to extend the credit for production of electricity from wind; to the Committee on Finance.

Mr. CONRAD. Mr. President, I rise today to introduce the Wind Energy Production Tax Credit Extension Act. This legislation is very important for the expansion and competitiveness of the wind energy sector in North Dakota and the rest of the country.

There should be no doubt that the wind energy production tax credit, PTC, is vital for the continued growth of the wind energy sector. The PTC was enacted in 1992. Delays in renewing the PTC have caused a boom-and-bust cycle in the development of wind projects. These delays of the credit inhibit the development of a favorable and secure investment climate for wind projects and are also economically damaging as companies involved in wind energy lay off workers or put off hiring until the credit is extended. Given the long lead time required to develop new wind projects, short-term extensions of the credit do not give companies enough certainty to expand wind energy production. We need a long-term extension to provide that certainty.

Wind energy is an important component of our Nation’s energy portfolio. Wind is a clean source of energy that fosters economic development in rural communities. Combined with other domestic sources of energy, the use of wind energy helps reduce our dependence on foreign sources of energy. In addition, advanced wind energy technology could one day be an important component of a non-carbon based economy. In order to ensure that wind power remains competitive with other fuels, passage of a longer-term wind PTC is necessary.

In my home State, a long-term extension of the wind PTC is especially important. North Dakota is ranked number one in wind energy potential. As in other parts of the country, reliance on Congress to re-examine the wind PTC prevents companies tied to wind energy from investing in long-term projects. Combined with other renewable energy technologies, a long-term wind PTC extension is vital to continue the development of wind energy resources that are second to none.

The bill I am introducing today will extend the wind energy PTC, indexed to inflation, for five years. I believe that Congress has the responsibility to ensure that the wind energy sector in this country grows at its full potential. In my view, wind is a crucial part of our country’s energy portfolio and energy security. This bill will help the wind energy industry grow and remain competitive, and will ensure that wind energy helps reduce our dependence on foreign sources of energy.

I urge my colleagues to support this legislation.

By Mr. INOUYE—S. 36. A bill to amend title 10, United States Code, to recognize the United States Military Cancer Institute as an establishment within the Uniformed Services University of the Health Sciences.
Services University of the Health Sciences, to require the Institute to promote the health of members of the Armed Forces and their dependents by enhancing cancer research and treatment, to provide for a study of the epidemiology of carcinogenesis among various ethnic groups for cancer prevention and early detection efforts, and for other purposes; to the Committee on Armed Services.

Mr. POTTER. Mr. President, today I introduce the United States Military Cancer Institute Research Collaborative Act. This legislation would formally establish the United States Military Cancer Institute (USMCI), and support the collaborative augmentation of research efforts in cancer epidemiology, prevention and control. Although the USMCI already exists as an informal collaborative effort, this bill will formally establish the institution with a mission of providing for the maintenance of health in the military by enhancing cancer research and treatment, and studying the epidemiological causes of cancer among various ethnic groups. By formally establishing the USMCI in a better position to unite military research efforts with other cancer research centers.

Cancer prevention, early detection, and treatment are significant issues for the military population, thus the USMCI was organized to coordinate the existing military cancer assets. The USMCI has a comprehensive database of its beneficiary population of 9 million people. The military’s nationwide tumor registry, the Automated Central Tumor Registry, has acquired more than 180,000 cases in the last 14 years, and a serum repository of 30 million specimens from military personnel collected sequentially since 1987. This population is predominantly Caucasian, African and Hispanic.

The Director of the USMCI, Dr. John Potter, is a Professor of Surgery at the Uniformed Services University of the Health Sciences (USUHS), a highly talented epidemiologist, Kangmin Zhu, has also been recruited to lead the USMCI Prevention and Control Programs.

The USMCI currently resides in the Washington, D.C., area, and its components are located at the National Naval Medical Center, the Malcolm Grow Medical Center, the Armed Forces Institute of Pathology, and the Armed Forces Radiobiology Research Institute. There are more than 70 research workers, in both active duty and Department of Defense civilian scientists, working in the USMCI.

The USMCI intends to expand its research activities to military medical centers nationwide. Special emphasis will be placed on the study of genetic and environmental factors in carcinogenesis among the entire population, including Asian, Caucasian, African-American and Hispanic subpopulations.

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

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

S. 36
Be it enacted by the Senate and House of Representatives of the United States of America in Congress

SECTION 1. THE UNITED STATES MILITARY CANCER INSTITUTE.

(a) ESTABLISHMENT.—Chapter 104 of title 10, United States Code, is amended by adding at the end the following new section: 

"§2117. United States Military Cancer Institute

(a) ESTABLISHMENT.—(1) There is a United States Military Cancer Institute in the University. The Director of the United States Military Cancer Institute is the head of the Institute.

(2) The Institute is composed of clinical and basic scientists in the Department of Defense who have an expertise in research, patient care, and education relating to oncology and who meet applicable criteria for participation in the Institute.

(3) The components of the Institute include military treatment and research facilities that meet applicable criteria and are designated as affiliates of the Institute.

(b) RESEARCH.—(1) The Director of the United States Military Cancer Institute shall carry out research studies on the following:

(A) The epidemiological features of cancer, including assessments of the carcinogenic effect of genetic and environmental factors, and of disparities in health, inherent or common among populations of various ethnic origins.

(B) The prevention and early detection of cancer.

(C) Basic, translational, and clinical investigation matters relating to the matters described in subparagraphs (A) and (B).

(2) The research studies under paragraph (1) shall include complementary research on oncologic nursing.

(c) COLLABORATIVE RESEARCH.—The Director of the United States Military Cancer Institute shall carry out the research studies under subsection (b) in collaboration with other cancer research organizations and entities selected by the Institute for purposes of the research studies.

(d) ANNUAL REPORT.—(1) Promptly after the end of each fiscal year, the Director of the United States Military Cancer Institute shall submit to the President of the University a report on the results of the research studies carried out under subsection (b).

(2) Not later than 60 days after receiving the annual report under paragraph (1), the President of the University shall transmit such report to the Secretary of Defense and to Congress:"

S. 37
A bill to extend the special postage stamp for breast cancer research for 2 years; to the Committee on Homeland Security and Governmental Affairs.

Mrs. FEINSTEIN. Mr. President, on behalf of Senator Hutchison and myself, I am pleased to introduce legislation to reauthorize the tremendously successful Breast Cancer Research Stamp for 2 additional years.

Without Congressional action, the Breast Cancer Research Stamp will expire on December 31 of this year.

The life of this extraordinary stamp deserves to be extended as it has proven to be a highly effective and self-supporting fundraising device.

Since 1998, the American people have bought over 588 million breast cancer stamps—raising $42.66 million for breast cancer research.

The National Cancer Institute and the Department of Defense have put these research dollars to good use by funding novel and innovative research in the area of breast cancer.

Over a 7 year period, the Breast Cancer Stamp has demonstrated a very successful and committed customer base.

Millions of Americans have bought the stamps to honor loved ones with the disease, to highlight their own personal battle with breast cancer or to promote general public awareness— in hope of helping to find a cure.

One cannot calculate in dollars and cents how the stamp has focused public awareness on this devastating disease and the need for additional research funding.

There is still so much more to do because this disease has far reaching effects on our Nation:

Breast cancer is the most commonly diagnosed cancer among women in the United States, ranking second among cancer deaths in women after lung cancer.

In 2005, approximately 211,240 women in the U. S. will get breast cancer.

About 40,410 women will die from the disease this year.

There are over two million women living today in the U. S. who have been treated for breast cancer.

Though much less common, about 1,300 men in America are diagnosed with breast cancer each year.

It is imperative that we extend the life of this stamp so that we can continue to reach out to American women and men and all of their loved ones who are living with breast cancer and to those who are living with it.

This legislation would extend the authorization of the Breast Cancer Research stamp for two additional years until December 31, 2007.

The stamp would continue to have a surcharge of up to 25 percent above the value of a first-class stamp with the surplus revenues going to breast cancer research.

Extending the Breast Cancer Research stamp does not affect any other semi-postal proposals under consideration by the Postal Service.

We urge our colleagues to join us in passing this important legislation to extend the Breast Cancer Research Stamp for another 2 years.

Thanks to breakthroughs in cancer research, more and more people are becoming cancer survivors rather than cancer victims. Every dollar we continue to raise will help save lives.

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. 37

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

SECTION 1. 2-YEAR EXTENSION OF POSTAGE STAMP FOR BREAST CANCER RESEARCH.

Section 414(b) of title 39, United States Code, is amended by striking “2005” and inserting “2007”.

By Mr. NELSON of Nebraska (for himself, Mr. DOMENICI, and Mr. CRAIG):

S. 41. A bill to amend the Safe Drinking Water Act to exempt small public water systems from certain drinking water standards relating to naturally occurring contaminants; to the Committee on Environment and Public Works.

Mr. NELSON of Nebraska. Mr. President, today I am offering legislation with Senator PETE DOMENICI and Senator LARRY CRAIG to allow small rural communities more time to meet an onerous and financially burdensome water quality regulation that is being imposed on local governments by the Environmental Protection Agency. The bipartisan Rural Community Arsenic Relief Act (RCARA) will amend the Safe Drinking Water Act to exempt small rural communities with population of up to ten thousand from the EPA’s strict requirement to limit arsenic in drinking water to 10 parts per billion by January 1, 2006. Currently the allowable level of arsenic in drinking water is 50 ppb.

As a former governor who fought against unfunded Federal mandates from Washington, I understand the impact a policy such as this can have on local budgets. Small rural communities simply don’t have the resources and tax base to meet the arsenic standard arbitrarily set by the EPA. This unfunded mandate is a strain on local government budgets and will drive up local taxes. It is not right to ask the elected officials of our small communities to spend their limited funds on risks that we are learning are not as dangerous as they have been portrayed. This legislation will allow local governments more time to plan for and absorb the costs of meeting the EPA’s standards for arsenic.

With each passing day it is increasingly evident that small communities will not be able to count on any immediate federal assistance in converting their water systems to meet the new arsenic standard. This bipartisan bill represents one means of giving more time to these communities, most of which have lived with arsenic—a widely distributed naturally occurring element—for ages.

Rural communities across America are grasping for solutions to comply with the new arsenic standard. Many reach the same conclusion—it is just too expensive. RCARA acknowledges that this is happening, recognizes that a one-size-fits-all solution doesn’t work, and provides a framework to protect public health, while at the same time giving communities the flexibility they need to comply.

State officials estimate it could cost communities $120 million—$176 million to comply with the standard. Many communities, fearing that this regulation could bankrupt them, are considering dramatically raising rates for drinking water to cover the construction and equipment. Extending the deadline is crucial for taxpayers and ratepayers throughout the country.

This bill allows small communities to adopt a locally supported public health policy as an alternative to the one prescribed by EPA. In many communities, the rule can reasonably be expected to more than double water rates on low-income families without improving the quality of their water in any appreciable way. Our bill provides a reasonable amount of time for our small communities to understand and implement EPA’s requirements, without bankrupting the system. It is the least we should do.

Mr. President, I rise to address an issue that has begun to emerge and gain our attention in rural America. This issue is an important one because it has the potential to devastate, economically, small cities and towns across the intermountain west—like in my State, of Idaho.

The new Environmental Protection Agency drinking water standard of 10 parts per billion for arsenic is something the current Administration inherited from the prior Administration and is now trying to implement. I would remind my colleagues, however, that the new lowered arsenic standard was not universally supported in Congress when it was proposed.

There were not many, but I was certainly one of them—that knew that the cost of complying with the new arsenic standard was going to be crippling economically—was going to break the back financially—of rural communities and small towns across the western United States.

I fought this new standard on the floor of the Senate. I knew the costs were crippling and the health benefit was bogus. I also knew that the science to support the lower standard is being exposed as being based on examples and samples populations that were very, very flawed. The science is now revealing that extrapolating from those sample populations to the whole of the United States was a very, very flawed basis for the drinking water standard. I fought this new standard, but I did not succeed.

There are communities now in Idaho that will not be able to come into compliance with this new standard by the time it takes effect. Some of these Idaho communities have estimated that it would take double or triple their entire city budget, just to try to come into compliance—and that would mean that no other city services could be paid for.

That kind of situation is clearly ridiculous, and I will fight as long and as hard as I can to find solutions to this problem.

Last year, I raised this issue with then-EPA Administrator Mike Leavitt. Mike Leavitt is a Westerner—his folks in Utah are having some of the same problems.

I discussed the issue with him. I will raise it with any successor of his who is nominated to head the EPA. I will keep raising this issue and looking for solutions. The problem is that EPA bureaucrats—who are so good at being bureaucrats—think they know Idaho better than Idahoans do. Some of our Idaho communities have requested of EPA Region 10 that EPA exercise some flexibility with this standard. This is fine, and it does not repeal the new arsenic standard but it does not provide the relief that I would like to see, and it does not repeal the new arsenic standard as I believe is merited by the science—this bill is a good compromise and a good start.

With this bill, we are trying to force the EPA to take into account the unique problems in Idaho that exist because Idaho is the only State where the new arsenic standard will apply. This is not a one-size-fits-all solution. The Environmental Protection Agency does not understand the unique problems in Idaho. I met with the Prime Minister of Canada last year and he is having some of the same arsenic problems.

By Mr. ALLEN (for himself, Mr. NELSON of Florida, Mr. DEWINE, Mr. NELSON of Nebraska, Mrs. DOLE, Ms. MURKOWSKI, and Mr. VITTER).

S. 42. A bill to amend title 10, United States Code, to increase the death gratuity payable with respect to deceased members of the Armed Forces, and for other purposes; to the Committee on Armed Services.
Mr. ALLEN. Mr. President, I rise to bring to my colleagues' attention a bill I introduced today called the Honoring the Fallen Soldiers and Families Act of 2005, sharing the same views of Senator Sessions of Alabama, who has worked on this legislation, as well as many of us over the years. We have a number of cosponsors, including Senator Warner. How is it that as Americans, I believe we need to do everything we can to make sure our men and women in uniform are provided with the most technologically advanced armaments and equipment for their safety and their security when they are protecting our liberty. We also need to take care of the families of the soldiers who lose their lives, those who are killed in action and on duty. We need to care more about their surviving families.

Currently there are a number of benefits that are provided to family members who lose a loved one while serving our great Nation. Some of these benefits include the Servicemen’s Group Life Insurance policies, the Dependents’ Education Assistance Program, education benefits, and Government housing.

However, there is one benefit I have been concerned with during my tenure in the Senate. This is called the military death gratuity. It is a tax-exempt cash payment, currently at the amount of $12,000, which provides immediate financial compensation to families of those service men and women who have lost their lives serving our great Nation. During the past 108th Congress, I cosponsored legislation authored by Senator Susan Collins of Maine to double the death gratuity from $6,000 to $12,000, which at the time was apparently a big deal, since Congress had sparred over the death of the Servicemen’s Group Life Insurance since its inception in 1908. The last increase before then was at the end of the first gulf war in 1991. Even then, half of that benefit was subjected to taxation.

Some of us in Congress understood the need to provide this financial assistance and were able to get this provision included in a larger bill, the Military Family Tax Relief Act of 2003. Not only did this legislation double the death gratuity from $6,000 to $12,000, but it excluded the payments of these moneys tax exempt.

However, that is not enough. $12,000. I still believe this current amount of $12,000 is a miserly and paltry amount. Indeed, I consider it insulting. I have been speaking with people from Virginia and all across America and listening to them. It is confirmed to me how truly insulting this sum of money is. My sense is that a grateful Nation wants to better help the widows, widowers, and the children of those who have lost their lives and their future in defense of our country and our liberties, whether it was in Afghanistan, Iraq, or elsewhere in the world.

When I was bringing this issue up, I got an e-mail and many messages from people across the country. This one is from Mrs. Margaret Stubenhofer from Springfield, VA, who wrote: "Dear Senator Allen: On December 7, 2004, our son Capt. Mark Stubenhofer (U.S. Army) was killed in action while serving in Iraq. He was shot by insurgents. Mark, who was born and raised in Springfield, VA, leaves behind his wife (Patty, age 30) and small children (Lauren, 5 yrs, Justin, 2½ yrs, and Hope, 4 months). I am writing to you in support of the proposed legislation to raise the military death benefit. It is appalling to me that our people, who also suffered a great tragedy, are receiving millions of dollars after their loved ones died on 9-11, whereas, a military personnel killed in action while bravely serving their country in a foreign land receive only slightly more than $12,000 as a death gratuity and $100,000 in insurance benefits. I am very much in favor of these benefits being raised to a more reasonable level, and I ask you to continue to support such action as to make this possible. In all good conscience, how can we possibly ask these young men and women to be ready to die for their country . . . and then leave them seven something when their worst nightmare actually becomes a reality? That is a good question. That is why I am introducing, with a number of my Senate colleagues, the Honoring the Fallen Soldiers and Families Act of 2005. I am glad this is getting a lot of support from both sides of the aisle and leadership.

This legislation will raise the military death gratuity from $12,000 to $100,000 for the families of those service men and women who have lost their lives serving our great Nation since October 1, 2001. The reason for October 1, 2001—the retroactivity—is that when the military action began in Afghanistan. As I mentioned, there a number of other benefits that family members whose loved one has died will receive, but unlike the death gratuity that reaches the family within 48 hours of the death, the other benefits can take some time—in fact, months—to make it to the family. That is just too long a period of time. They will eventually get it, but that short-term, immediate influx of money helps provide for the monetary stability at a time of great grief and uncertainty. The money can help pay for a home mortgage or for rent or gas or utilities bills, car payments or schooling. It is paid to kids who are in school where there are expenses. It will also help put food on the table. As a matter of fact, many of the fallen soldiers were the sole or significant breadwinner for the families, and the families are left without any immediate source of income.

It is doubly important for members of the Guard and Reserve. Approximately a quarter to a third of those who serve in the Guard and Reserve actually take a pay cut when they are called up or activated to serve. While it is a source of income that may be less than they were receiving in the private sector, it is still a significant, substantial part of that family household’s income. So when a soldier loses his or her life, even if it is a lower amount, the money stops. That is why it is imperative that we in Congress raise the death gratuity to a level that will take care of the immediate financial needs of these families.

I have heard questions or critics may argue that raising the death gratuity to $100,000 is too costly. I contend that if you look at firefighters and police officers, these great citizens of our communities who are our warriors at home, saving lives from fires or law enforcement actions, they generally get a death gratuity in the amount of $50,000 to $100,000. In our Commonwealth of Virginia, a police officer or firefighter who loses his or her life in the line of duty receives a $75,000 death gratuity. My proposal is to put some logical symmetry between what our warriors on the homefront—the police officers and firefighters—get and what our soldiers stationed at home and abroad get.

In addition, as long as we have an all-volunteer Army, we need to make sure our soldiers know and their families know they have the best possible benefits should the unthinkable happen. I believe this legislation will help put some of those worries at ease. Whatever the amount may be, I guarantee to each of my colleagues that any family would rather have their loved one there at holidays and birthdays and anniversaries than the $100,000, but there is also the financial hole in their lives. There is also one that cannot be compensated. But it is one that a grateful Nation would want to provide.

I will close by quoting George Washington, who was one of our greatest leaders, when he made a very wise and still cogent observation.

He cautioned that the willingness of future generations to fight for their country, no matter how just the cause, will be proportional to how they remember previous victories.

It is important that we show a deeper appreciation for those heroic soldiers who died defending our liberty and also their brave families back home who have paid the ultimate sacrifice as well. This legislation is a significant striding step in that direction.

I urge my colleagues in the Senate to quickly act on this legislation and all others trying to help our families of fallen heroes and their loved ones and pass these measures quickly as possible, and also make them retroactive for all of those nearly 1,500 who have lost their lives protecting our freedom, advancing liberty throughout the world, and people who are truly American heroes whom we will always remember.

By Mr. HAGEL (for himself, Mr. COLEMAN, Mr. KENNEDY, Mr. DeWINE, and Mr. OBAMA).

S. 434—A bill to provide certain enhancements to the Montgomery GI Bill Program for certain individuals who serve as members of the Armed Forces.
SEC. 2. EXEMPTION FROM PAYMENT OF INDIVIDUAL CONTRIBUTIONS UNDER MONTGOMERY GI BILL OF INDIVIDUALS WHO SERVE AS ACTIVE DUTY MEMBERS OF THE ARMED FORCES UNDER EXECUTIVE ORDER 13255.

(a) Active Duty.—Notwithstanding section 301(b) of title 38, United States Code, no reduction in basic pay otherwise required by such section shall be made in the case of a covered member of the Armed Forces.

(b) Selected Reserve Program.—Notwithstanding section 301(b) of title 38, United States Code, no reduction in basic pay otherwise required by such section shall be made in the case of a covered member of the Armed Forces who first entered on active duty as a member of the Armed Forces before the date of the enactment of this Act and whose basic pay would, but for such section, be subject to reduction under section 301(b) or 3012(c) of such title for any month beginning on or after that date, the reduction of basic pay of such covered member of the Armed Forces under such section 301(b) or 3012(c), as applicable, shall cease commencing with the first month beginning on or after that date.

(c) Termination of Eligibility as a Result of Reductions in Basic Pay.—In the case of a covered member of the Armed Forces who first entered on active duty as a member of the Armed Forces before the date of the enactment of this Act and whose basic pay would, but for section 301(a) or (b) of title 38, United States Code, be subject to reduction under section 301(b) or 3012(c) of such title for any month beginning on or after that date, the reduction of basic pay of such covered member of the Armed Forces under such section 301(b) or 3012(c), as applicable, shall cease commencing with the first month beginning on or after that date.

(d) Refund of Contributions.—(1) In the case of a covered member of the Armed Forces whose basic pay was reduced under section 301(b) or 3012(c) of such title for any month beginning before the date of the enactment of this Act, the Secretary concerned shall pay to such covered member of the Armed Forces an amount equal to the aggregate amount of reductions of basic pay of such member of the Armed Forces under such section 301(b) or 3012(c), as applicable, as of that date.

(2) Any amount paid to a covered member of the Armed Forces under paragraph (1) shall not be included in gross income under the Internal Revenue Code of 1986.

(3) Amounts for payments made by a Secretary concerned under paragraph (1) during fiscal year 2005 shall be derived from amounts made available for such fiscal year in an Act making supplemental appropriations for defense and the reconstruction of Iraq.

(4) In this subsection, the term "Secretary concerned" means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy or the Marine Corps;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force; and

(D) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard.

(e) Covered Member of the Armed Forces Defined.—In this section, the term "covered member of the Armed Forces" means any individual who serves on active duty as a member of the Armed Forces during the period—

(1) beginning on November 16, 2001, the date of Executive Order 13255, relating to National Emergency Construction Authority; and

(2) ending on the termination date of the Executive order referred to in paragraph (1).

S. 43

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 "Montgomery GI Bill Enhancement Act of 2005."
By Mr. LEVIN (for himself, Mr. HATCH, and Mr. BIDEN):

S. 45. A bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes; to the Senate, Health, Education, Labor, and Pensions.

Mr. LEVIN. Mr. President, the legislation I am introducing today along with my colleagues Senator HATCH and Senator BIDEN addresses an unintended effect of a provision in the original Drug Abuse and Treatment Act of 2000 (DATA) that hinders access to a revolutionary new treatment for thousands of individuals who seek it.

When Congress passed DATA as Title XXXV of the Children’s Health Act of 2000, it allowed for the dispensing and prescribing of Schedule III drugs, like buprenorphine/naloxone, in an office-based setting, for the treatment of heroin addiction. As a result of DATA, access to treatment has expanded; patients no longer are restricted to receiving treatment in a large public clinic, usually at a great distance, but now may receive such care in the private, nearby office of a qualified physician.

DATA limits individual physicians to treating no more than 30 patients at a time. Unfortunately, the law results in the same 30-patient limit on physicians who practice in a group, or from a group-based or mixed-model health plan. Nevertheless, the effect and it has a severe effect.

The problem is addressed by removing the 30-patient aggregate limit on physician group practices, while maintaining the 30-patient limit on each physician. I am pleased that the Senate has already gone on record in support of this modification to DATA. On October 11, 2000, Senator HATCH and Senator DODD, by introducing S. 2784, to remove the 30-patient limit on the group practices. However, the House adjourned before acting on the legislation. It is our hope that the bill we are introducing today will receive speedy action in both the Senate and House in the very near future.

Mr. President, I would like to share some of the sentiments that have been expressed in support of the group practice modification, as well as some first-hand accounts of individuals who are being treated with buprenorphine/naloxone. Dr. Charles Schuster, a former director of the National Institute on Drug Abuse who currently heads the Addiction Research Institute at Wayne State University, writes:

We have three physicians in a group, all of whom have been trained and granted waivers by the U.S. Department of Health and Human Services to prescribe Suboxone and Subutex for the treatment of opiate addiction. All are specialists in the treatment of addiction disorders. We are able to bring this potentially life saving therapy to 90 members of our community, they are restricted to a total of thirty.

The situation is heart break ing in places where there are a few or only one provider. This situation will only get worse as physicians and practice plans reach their 30-patient limits.

I have been involved in the development of Suboxone and Subutex for the treatment of opiate addiction for many years. It is a safer medication with less abuse potential than methadone. It allows people who fear public knowledge of their addictive disease to more discreetly seek help from a private physician. It is a medication that can be used for a short period with adolescents who have become addicted to opiates because it is easier to discontinue than methadone. It is done. In short, office-based practice with Suboxone and Subutex is a major addition to our country’s treatment system for opiate addiction.

It is essential that we remove the impediment of limiting Physician Practice Plans to 30 patients so that each of the physicians in such Practice Plans who are trained to use this medication can bring their services to those in need.

Peter DeMarco, in an article in the May 30, 2004 Boston Globe, writes:

When buprenorphine became available as a treatment for OxyContin and heroin addiction, two years ago, physicians and addicts hailed it as a miracle drug, bringing addicts back from the brink and helping them lead normal lives when all else had failed. But for many addicts, buprenorphine remains one of the hardest drugs to obtain. . . . (B)uprenorphine doesn’t cloud the minds of patients, allowing them to work or study as if they were not on any drug at all. Nearly all who take buprenorphine, meanwhile, say they lose all physical cravings for substances when all else had failed. But for many addicts, buprenorphine remains one of the hardest drugs to obtain. . . . (B)uprenorphine doesn’t cloud the minds of patients, allowing them to work or study as if they were not on any drug at all. Nearly all who take buprenorphine, meanwhile, say they lose all physical cravings for substances when all else had failed. But for many addicts, buprenorphine remains one of the hardest drugs to obtain.

By Mr. HAGEL (for himself, Mr. DEWINE, Mrs. CLINTON, Mr. LUTTENBERG, and Mr. SALAZAR):

S. 44. A bill to amend title 10, United States Code, to increase the amount of the military death gratuity from $12,000 to $100,000; to the Committee on Armed Services.

Be it enacted by the Senate and House of Representa tives of the United States of America in Congress assembled, in SEC. 1. SHORT TITLE. This Act may be cited as the “Military Death Benefit Improvement Act of 2005.”

SEC. 2. INCREASE IN DEATH GRATUITY PAYABLE WITH RESPECT TO MEMBERS OF THE ARMED FORCES.

(a) AMOUNT OF DEATH GRATUITY.—Section 1478(a) of title 10, United States Code, is amended by striking “$12,000” and inserting “$100,000.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to deaths occurring on or after November 16, 2001, the date of Executive Order 13235, relating to National Emergency Construction Authority; and

(c) FUNDING.—(1) SOURCE OF FUNDS.—Amounts for the payment during fiscal year 2005 of death gratuities by a Secretary concerned under sections 1475 through 1477 of title 10, United States Code, as amended by subsection (a), shall be derived from amounts made available for the fiscal year in an Act making emergency supplemental appropriations for defense and for the reconstruction of Iraq.

(2) SECRETARY CONCERNED DEFINED.—In this subsection, the term "Secretary concerned" has the meaning given such term in section 101(a)(9) of title 10, United States Code.
LUGAR, a bill to grant normal trade reintroduce with my colleague, Senator
nent normal trade relations treatment)
section of unconditional and permanent
follows:
(iii) by striking
(21 U.S.C. 823(g)(2)(B)) is amended in clause
follows through
''
(iv). (21 U.S.C. 823(g)(2)(B)) is amended by striking clause
''
Mr. President, I ask unanimous con-
ent of the legislation be in-
cluded at the end of my remarks.
There being no objection, the bill was
ordered to be printed in the RECORD, as
follows:
S. 45
Be it enacted by the Senate and House of Rep-
resentatives of the United States of America in Congress
assembled,
SECTION 1. MAINTENANCE OR DETOXIFICATION
TREATMENT WITH CERTAIN NARCOTIC
DRUGS; ELIMINATION OF 30-
PATIENT LIMIT FOR GROUP PRACT-
ices.
(a) IN GENERAL.—Section 303(g)(2)(B) of the
Controlled Substances Act (21 U.S.C. 823(g)(2)(B) is amended by striking clause
(iv).
(b) CONFORMING AMENDMENT.—Section 303(g)(2)(B) of the Controlled Substances Act
(21 U.S.C. 823(g)(2)(B)) is amended in clause
(iii) by striking “in any case” and all that
follows through “the total” and inserting
“The total”.
(c) EFFECTIVE DATE.—This section shall
take effect on the date of enactment of this
Act.
By Mr. LEVIN (for himself and
Mr. LUGAR):
S. 46. A bill to authorize the exten-
sion of unconditional and permanent nondiscriminatory treatment (permanent
normal trade relations treatment) to
the Ukraine, and for other purposes; to the Committee on Finance.
Mr. LEVIN. Mr. President, today I
introduce with my colleague, Senator LUGAR, a bill to grant normal trade
treatment to the products of Ukraine.
My constituent, Congressman SANDER
LEVIN and other members are intro-
ducing a similar bill in the House. It is
our hope that enactment of this legis-
lation will help to build stronger eco-
nomic ties between the United States and Ukraine.
The Cold War era Jackson-Vanik
trade restrictions that deny most fa-
vored nation trade status to imports
from former Soviet Block countries are
outside, and when applied to Ukraine,
inappropriate. Those restrictions were
established as a tool to pressure Com-
munist nations to allow their people to
freely emigrate in exchange for favor-
able trade treatment by the United
States.
Ukraine does allow its citizens the
right and opportunity to emigrate. It
has met the Jackson-Vanik test. In
fact, Ukraine has been found to be in
full compliance with the freedom of
emigration requirements under the
Jackson-Vanik law. Ukraine has been
certified as meeting the Jackson-Vanik
requirements on an annual basis since
1992 when a bilateral trade agreement
went into effect.
It is time that the United States recog-
nizes this reality by eliminating the
Jackson-Vanik restrictions and grant-
ing Ukraine normal trading status on a
permanent basis. Our bill does this as
well as addressing traditional Jackson-
Vanik issues such as emigration, reli-
gious freedom, restoration of property,
and human rights. It also deals with
the important trade issues that must be
considered when granting a country
permanent normal trade relations
(PNTR) status.
Since reestablishing independence in
1991, Ukraine has taken important
steps toward the creation of demo-
cratic institutions and a free-market
economy. As a member state of the Or-
ganization for Security and Coopera-
tion in Europe (OSCE), Ukraine is com-
mitted to developing a system of gov-
ernance in accordance with the prin-
ciples regarding human rights that are
set forth in the Final Act of the Con-
ference on Security and Cooperation in
Europe, the Helsinki Final Act.
On December 26, 2004, Ukraine took
another historic step in its pursuit of
democracy with the legitimate election
of its new President Viktor Yushchenko.
This election showed the world that
Ukraine has joined the family of dem-
cracies. The United States can help
advance this young democracy by re-
pealing our Cold War-era laws that
should no longer apply to them and
welcoming them to the international
economic community as a full partner.
This bill will accomplish these goals.
In addition to welcoming the Ukraini-
ian government to the family of
democracies, we must also take a mo-
ment to honor the Ukrainian people for
their commitment to democratic insti-
tutions in civil society through peace-
ful demonstrations. Free and fair elec-
tions are the hallmark of the Ukrainian
people. Without their persist-
ence, Ukraine was in danger of moving
forward with an illegitimately elected
president.
By drawing Ukraine into normal trade
relations, the international com-
munity will be helping Ukraine to
achieve greater market reform and
continue its commitment to safe-
guarding religious liberty and enfor-
cing human rights. Full trade treatment
will help to build stronger economic ties
between the United States and Ukraine and
encourage increased international invest-
ment in Ukraine. Hopefully it will also
inculcate the reforms the Ukrainian people
deserve on their way to achieving a more mature and
stable democracy.
It’s time we recognize Ukraine’s ac-
complishments and status as an emerg-
ing democracy and market economy by lifting the Jackson-Vanik restrictions. I
hope my colleagues will support this
important bill.
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. 46
Be it enacted by the Senate and House of Rep-
resentatives of the United States of America in
Congress assembled,
SECTION 1. FINDINGS.
Congress finds that—
(1) Ukraine allows its citizens the right and opportunity to emigrate, free of any-
thing more than a nominal tax on emigra-
tion or on the visas or other documents
required for emigration and free of any tax,
levy, fine, fee, or other charge on any citi-
zens as a consequence of the desire of such
citizens to emigrate to the country of their
choice;
(2) Ukraine has been found to be in full compliance with the freedom of emigra-
tion requirements under title IV of the Trade Act
of 1974 since 1997;
(3) since reestablishing independence in
1991, Ukraine has taken important steps
forward with an illegitimately elected
president.
Mr. President, today I
introduce with my colleague, Senator LUGAR, a bill to grant normal trade
treatment to the products of Ukraine.
My constituent, Congressman SANDER
LEVIN and other members are intro-
ducing a similar bill in the House. It is
our hope that enactment of this legis-
lation will help to build stronger eco-
nomic ties between the United States and Ukraine.
The Cold War era Jackson-Vanik
trade restrictions that deny most fa-
vored nation trade status to imports
from former Soviet Block countries are
outside, and when applied to Ukraine,
inappropriate. Those restrictions were
established as a tool to pressure Com-
munist nations to allow their people to
freely emigrate in exchange for favor-
able trade treatment by the United
States.
Ukraine does allow its citizens the
right and opportunity to emigrate. It
has met the Jackson-Vanik test. In
fact, Ukraine has been found to be in
full compliance with the freedom of
emigration requirements under the
Jackson-Vanik law. Ukraine has been
certified as meeting the Jackson-Vanik
requirements on an annual basis since
1992 when a bilateral trade agreement
went into effect.
It is time that the United States recog-
nizes this reality by eliminating the
Jackson-Vanik restrictions and grant-
ing Ukraine normal trading status on a
permanent basis. Our bill does this as
well as addressing traditional Jackson-
Vanik issues such as emigration, reli-
gious freedom, restoration of property,
and human rights. It also deals with
the important trade issues that must be
considered when granting a country
permanent normal trade relations
(PNTR) status.
Since reestablishing independence in
1991, Ukraine has taken important
steps toward the creation of demo-
cratic institutions and a free-market
economy. As a member state of the Or-
ganization for Security and Coopera-
 tion in Europe (OSCE), Ukraine is com-
mitted to developing a system of gov-
ernance in accordance with the prin-
ciples regarding human rights that are
set forth in the Final Act of the Con-
ference on Security and Cooperation in
Europe, the Helsinki Final Act.
On December 26, 2004, Ukraine took
another historic step in its pursuit of
democracy with the legitimate election
of its new President Viktor Yushchenko.
This election showed the world that
Ukraine has joined the family of dem-
cracies. The United States can help
advance this young democracy by re-
pealing our Cold War-era laws that
should no longer apply to them and
welcoming them to the international
economic community as a full partner.
This bill will accomplish these goals.
In addition to welcoming the Ukraini-
ian government to the family of
democracies, we must also take a mo-
ment to honor the Ukrainian people for
their commitment to democratic insti-
tutions in civil society through peace-
ful demonstrations. Free and fair elec-
tions are the hallmark of the Ukrainian
people. Without their persist-
ence, Ukraine was in danger of moving
forward with an illegitimately elected
president.
By drawing Ukraine into normal trade
relations, the international com-
munity will be helping Ukraine to
achieve greater market reform and
continue its commitment to safe-
guarding religious liberty and enfor-
cing human rights. Full trade treatment
will help to build stronger economic ties
between the United States and Ukraine and
encourage increased international invest-
ment in Ukraine. Hopefully it will also
inculcate the reforms the Ukrainian people
deserve on their way to achieving a more mature and
stable democracy.
It’s time we recognize Ukraine’s ac-
complishments and status as an emerg-
ing democracy and market economy by lifting the Jackson-Vanik restrictions. I
hope my colleagues will support this
important bill.
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. 46
Be it enacted by the Senate and House of Rep-
resentatives of the United States of America in
Congress assembled,
(7) Ukraine has enacted legislation providing protection against incitement to violence against persons or groups based on national, racial, ethnic, or religious discrimination or persecution, and has committed itself, including through a letter to the President of the United States, to ensuring freedom of religion and combating racial and ethnic discrimination and hatred.

(8) Ukraine has engaged in efforts to combat ethnic and religious intolerance by cooperating with various United States nongovernmental organizations.

(9) Ukraine is continuing the restitution of religious properties, including religious and communal properties confiscated during the Soviet era, is facilitating the revival of those minority groups, and remains committed to developing a legislative framework for completing this process, as promised in a letter to the President of the United States.

(10) Ukraine has received normal trade relations treatment since concluding a bilateral trade agreement with the United States that entered into force on June 23, 1992.

(11) Ukraine's accession to the World Trade Organization, a welcome step, recognizing that many issues remain to be resolved, including commitments relating to access of United States agricultural products, intellectual property rights, tariff and excise tax reductions for goods (including automobiles), trade in services, elimination of export incentives for industries, and reform of customs procedures and other non-tariff barriers.

(12) Ukraine has enacted protections reflecting internationally recognized labor rights.

(13) As a participating state of the OSCE, Ukraine has committed itself to respecting freedom of the press, and the new administration has committed itself to this commitment.

(14) Ukraine has stated its desire to pursue a course of Euro-Atlantic integration with a commitment to ensuring democracy and prosperity for its citizens.

(15) Ukraine has participated with the United States in its peacekeeping operations in Europe and has provided important cooperation in the global struggle against international terrorism.

SEC. 2. TERMINATION OF APPLICATION OF TITLE IV—THE TRADE ACT OF 1974 TO UKRAINE.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSION OF UNCONDITIONAL AND PERMANENT NONDISCRIMINATORY TREATMENT.

(1) The President has determined that the trade agreement between the United States and Ukraine that entered into force on June 23, 1992, remains in force between the 2 countries and provides the United States with important rights, including the right to use specific safeguard rules to respond to import surges from Ukraine.

(2) The President of Safeguard.—Section 421 of the Trade Act of 1974 (19 U.S.C. 2461) shall apply to Ukraine to the same extent as the Act applies to any other country.

(b) Presidential Determination of Safeguard.—Not later than 5 days after the date on which the United States has entered into a bilateral agreement with Ukraine, the President shall transmit to Congress, not later than 15 days after that agreement is entered into, a report that sets forth the provisions of that agreement.

(c) CONGRESSIONAL OVERSIGHT RESOLUTION.—(1) NOTICE OF AGREEMENT ON ACCESSION TO WTO BY UKRAINE.—Not later than 30 days after the date on which the United States has entered into a bilateral agreement with Ukraine, the President shall transmit to Congress, and the President shall transmit to Congress, not later than 15 days after that agreement is entered into, a report that sets forth the provisions of that agreement.

(2) CONGRESSIONAL OVERSIGHT RESOLUTION.—In this subsection, the term "Congressional Oversight Resolution" means only a joint resolution of the two Houses of Congress, the text of which is determined from the procedural clause of which is as follows: "That it is the sense of the Congress that the agreement between the United States and Ukraine on the terms of accession by Ukraine to the World Trade Organization, of which Congress was notified on ___, does not adequately ad-

vance the interests of the United States.", with the blank space being filled with the appropriate date.

(3) PROCEDURES FOR CONSIDERING RESOLUTION.—(A) INTRODUCTION AND REFERRAL.—A Congressional Oversight Resolution—

(i) in the House of Representatives, may be introduced by any Member of the House;

(ii) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(iii) may not be amended by either Committee; and

(b) COMMITTEE DISCHARGE AND FLOOR CONSIDERATION.—The provisions of subsections (a) through (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192) (c) through (f) (relating to committee discharge and floor consideration of certain resolutions in the House) apply only to a Congressional Oversight Resolution to the same extent as such subsections apply to resolutions under such section.

(c) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (b) is enacted by Congress as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, and the procedures described in such subsections to enforce other rules only to the extent that they are inconsistent with such other rules; and

(d) The full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

Mr. LUGAR. Mr. President, I rise today in support of a bill that I have introduced with Senator CARL LEVIN authorizing the extension of permanent non-discriminatory treatment. Ukraine is still subject to the provisions of the Jackson-Vanik amendment to the Trade Act of 1974, which sanctions nations for failure to comply with freedom of emigration requirements. Our bill would repeal permanently the application of Jackson-Vanik to Ukraine.

In the post-cold-war era, Ukraine has demonstrated a commitment to meet these requirements, and in addition, has expressed a strong desire to abide by free market principles and good governance. Last November, I served as President Bush’s personal representative to the runoff election between Prime Minister Yanukovich and Viktor Yushchenko. During that visit, I promoted free and fair election procedures that would strengthen worldwide respect for the legitimacy of the winning candidate. Unfortunately, that did not happen. The Government of Ukraine allowed, or aided and abetted, wholesale fraud and abuse that changed the results of the election. It is clear that Prime Minister Yanukovich did not win the election.

In response, the people of Ukraine rallied in the streets and demanded justice. After tremendous international
pressure and mediation, Ukraine repeated the runoff election on December 26. A newly named Central Election Commission and a new set of election laws led to a much-improved process. International monitors concluded that the process was generally free and fair. This election, won by Viktor Yushchenko, was inaugurated as President of Ukraine.

Extraordinary events have occurred in Ukraine over the last three months. A free press has revolted against government intimidation and reassigned itself. An emerging middle class has found its political footing. A new generation has embraced democracy and openness. A society has rebelled against the illegal activities of its government. It is in our interest to recognize and protect these advances in Ukraine.

The United States has a long record of cooperation with Ukraine through the Nunn-Lugar Cooperative Threat Reduction Program. Ukraine inherited the third largest nuclear arsenal in the world with the fall of the Soviet Union. Through the Nunn-Lugar program the United States has assisted Ukraine in eliminating this deadly arsenal and joined the Nonproliferation Treaty as a non-nuclear State.

One of the areas where we can deepen United States-Ukrainian relations is bilateral trade. Our trade relations between the United States and Ukraine are currently governed by a bilateral trade agreement signed in 1992. There are other economic agreements in place seeking to further facilitate economic cooperation between the United States and Ukraine, including a bilateral investment treaty which was signed in 1996, and a taxation treaty signed in 2000. In addition, Ukraine commenced negotiations to become a member of the World Trade Organization in 1993, further demonstrating its commitment to adhere to free market principles and fair trade. In light of Ukraine’s adherence to freedom of emigration requirements, democratic principles, compliance with threat reduction and several agreements on economic cooperation, the products of Ukraine should not be subject to the sanctions of Jackson-Vanik.

There are areas in which Ukraine needs to continue to improve. These include market access, protection of intellectual property and reduction of tariffs. The U.S. must remain committed to assisting Ukraine in pursuing market economic reforms. The permanent waiver of Jackson-Vanik and establishment of permanent normal trade relations will be the foundation on which further progress in a burgeoning economic partnership can be made.

I am hopeful that my colleagues will review this legislation and join Senator Levin and I in supporting this important legislation.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 47. A bill to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today, I am introducing along with Mr. DOMENICI the “Pecos National Historical Park Land Exchange Act of 2005”. This bill will authorize a land exchange between the Federal government and a private landowner that will benefit the Pecos National Historical Park in my State of New Mexico.

Specifically, the bill will enable the Park Service to acquire a private inholding within the Park’s boundaries in exchange for the transfer of a nearly tracts of National Forest System land. The National Forest parcel has been identified as available for exchange in the Santa Fe National Forest Land and Resource Management Plan and is surrounded by private lands on three sides.

The Pecos National Historical Park possesses exceptional historic and archeological resources. The Park preserves the ruins of the great Pecos pueblo, which was a major trade center, and the ruins of two Spanish colonial missions dating from the 17th and 18th centuries.

The Glorieta Unit of the Park protects key sites associated with the 1862 Civil War Battle of Glorieta Pass, a significant event that ended the Confederates’ attempt to expand the war into the West. This Unit will directly benefit from the land exchange.

Similar bills passed the Senate in both the 106th and the 108th Congresses, and I hope it finally will be enacted this Congress. 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. 47

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

SEC. 1. SHORT TITLE. This Act may be cited as the “Pecos National Historical Park Land Exchange Act of 2005”.

SEC. 2. DEFINITIONS. In this Act:

(1) FEDERAL LAND.—The term “Federal land” means the approximately 190 acres of Federal land within the Santa Fe National Forest in the State of New Mexico, as depicted on the map.

(2) LANDOWNER.—The term “landowner” means the 1 or more owners of the non-Federal land.


(4) NON-FEDERAL LAND.—The term “non-Federal land” means the approximately 154 acres of non-Federal land in the Park, as depicted on the map.

(5) PARK.—The term “Park” means the Pecos National Historical Park in the State.

(6) SECRETARIES.—The term “Secretaries” means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.

(7) STATE.—The term “State” means the State of New Mexico.

SEC. 3. LAND EXCHANGE.

(a) IN GENERAL. —On conveyance by the landowners to the Secretary of Agriculture of the non-Federal land, title to which is acceptable to the Secretary of the Interior—

(1) the Secretary of Agriculture shall, subject to the conditions of this Act, convey to the landowner the Federal land; and

(2) the Secretary of the Interior shall, subject to the conditions of this Act, grant to the landowner the easement described in subsection (b).

(b) EASEMENT.—

(1) IN GENERAL. —The easement referred to in subsection (a)(2) is an easement (including an easement for service access) for water pipelines to 2 well sites located in the Park, as generally depicted on the map.

(2) ROUTE.—The Secretary of the Interior, in consultation with the landowner, shall determine the appropriate route of the easement through the Park.

(3) TERMS AND CONDITIONS.—The easement shall include such terms and conditions relating to the use of, and access to, the well sites and pipeline, as the Secretary of the Interior, in consultation with the landowner, determines to be appropriate.

(4) APPLICABLE LAW.—The easement shall be established, operated, and maintained in compliance with applicable Federal law.

(c) VALUATION, APPRAISALS, AND EQUALIZATION.—

(1) IN GENERAL. —The value of the Federal land and non-Federal land—

(A) shall be equal, as determined by appraisals conducted in accordance with paragraph (2); or

(B) if the value is not equal, shall be equalized in accordance with paragraph (3).

(2) APPRAISALS.—

(A) IN GENERAL. —The Federal land and non-Federal land shall be appraised by an independent appraiser selected by the Secretaries.

(B) REQUIREMENTS.—An appraisal conducted under subparagraph (A) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisition; and

(ii) the Uniform Standards of Professional Appraisal Practice.

(C) APPROVAL.—The appraisals conducted under this paragraph shall be submitted to the Secretaries for approval.

(3) EQUALIZATION OF VALUES.—

(A) IN GENERAL.—If the values of the non-Federal land and the Federal land are not equal, the values may be equalized by—

(i) the Secretary of the Interior making a cash equalization payment to the landowner;

(ii) the landowner making a cash equalization payment to the Secretary of Agriculture; or

(iii) reducing the acreage of the non-Federal land or the Federal land, as appropriate.

(B) CASH EQUALIZATION PAYMENTS.—Any amounts received by the Secretary of Agriculture as a cash equalization payment under section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) shall—

(i) be deposited in the fund established by Public Law 90–171 (commonly known as the “Sisk Act”) (16 U.S.C. 384a); and

(ii) be available for expenditure, without further appropriation, for acquisition of land and interests in land in the State.

(d) COSTS.—Before the completion of the exchange under this section, the Secretaries
and the landowner shall enter into an agreement that allocates the costs of the exchange among the Secretaries and the landowner.

(c) APPLICABLE LAW.—Except as otherwise provided in this Act, the exchange of land and interests in land under this Act shall be in accordance with:

(1) section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716); and

(2) other applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) in subsection (b)(1), by striking "$1,000,000." and inserting "$9,000,000.";

The Secretaries may require, in addition to any requirements under this Act, such terms and conditions relating to the exchange of Federal land and non-Federal land and the granting of easements under this Act as the Secretaries determine to be appropriate to protect the interests of the United States.

(g) COMPLETION OF THE EXCHANGE.

(1) In General.—The exchange of Federal land and non-Federal land shall be completed not later than 180 days after the later of:

(A) the date on which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been met;

(B) the date in subsection (c)(2)(C); or

(C) the date on which the Secretaries and the landowner agree on the costs of the exchange and any other terms and conditions of the exchange under this section.

(2) NOTICE.—The Secretaries shall submit to the Representatives of the Senate and the Committee on Resources of the House of Representatives a revised map that depicts the exchange of Federal land and non-Federal land under this Act.

SECTION 4. ADMINISTRATION.

(a) In General.—The Secretary of the Interior shall administer the non-Federal land acquired under this Act in accordance with the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the "National Park Service Organic Act") (16 U.S.C. 1 et seq.).

(b) MAPS.

(1) In General.—The map shall be on file and available for public inspection in the appropriate offices of the Secretaries.

(2) TRANSMITTAL OF REVISED MAP TO CONGRESS.—Not later than 180 days after completion of the exchange, the Secretaries shall transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a revised map that depicts—

(A) the Federal land and non-Federal land exchanged under this Act; and

(B) the easement described in section 3(b).

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 48. A bill to reauthorize appropriations for the New Jersey Coastal Heritage Trail Route, and for other purposes;

BE IT ENACTED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED,

SECTION 1. REAUTHORIZATION OF APPROPRIATIONS FOR NEW JERSEY COASTAL HERITAGE TRAIL ROUTE.

(a) REAUTHORIZATION.—Section 6 of Public Law 100–515 (16 U.S.C. 1244 note) is amended—

(1) in subsection (b)(1), by striking "$1,000,000." and inserting "$9,000,000.";

(b) STRATEGIC PLAN.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall prepare a strategic plan for the New Jersey Coastal Heritage Trail Route.

(2) CONTENTS.—The strategic plan shall describe—

(A) opportunities to increase participation by national and local private and public interests in the planning, development, and administration of the New Jersey Coastal Heritage Trail Route; and

B. STEVENS (for himself and Ms. MURKOWSKI):

S. 49. A bill to establish a joint Federal-State Floodplain and Erosion Mitigation Commission for the State of Alaska; to the Committee on Energy and Natural Resources.

Mr. STEVENS. Mr. President, on behalf of myself and Senator MURKOWSKI, I introduce S. 49, the Alaska Floodplain and Erosion Mitigation Commission Act.

For the last several years, we have seen coastal river flooding and erosion destroy homes, public buildings, and runways, threatening the traditional lifestyle of our Alaska Native people and rural residents. Over 100 feet of land can be lost in a single storm, with homes and buildings literally being washed into the ocean.

Last year, the Federal Emergency Management Agency was called in after one storm and assessed millions of dollars in damages.

In Alaska, there are over 213 communities that have been identified as being affected by erosion, 4 of which are in imminent danger and will be forced to relocate.

Given the devastating impacts of erosion on Alaska Native villages, I held a full 2-day Appropriations field hearing in July of 2004. Senator CONRAD BURNS of Montana, Senator JOHN SUNUNU of New Hampshire, and Senator LISA MURKOWSKI were all in attendance.

Testifying at the hearing were witnesses from the Federal Government, State of Alaska, and representatives from the villages most affected by coastal erosion and flooding.

These hearings examined the findings and recommendations from the Government Accounting Office, GAO, report on the severe flooding and erosion problems faced in many Native Alaska villages. Congress had previously directed GAO to study flooding and erosion of Alaska Native villages and to determine the extent to which these villages are affected, identify Federal and State flooding and erosion programs, determine the current status of
efforts to respond to flooding and erosion in nine villages, and identify alternatives that Congress may wish to consider when providing assistance for flooding and erosion.

This bill is a culmination of the GAO report and the field hearings I have mounted. It will focus the efforts of the Federal agencies and the State of Alaska to better serve the impacted Native villages and rural residents. This bill is intended to provide relief for these communities. It is going to be a very difficult problem to solve.

Mr. President, 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. 49

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Alaska Floodplain and Erosion Mitigation Commission Act of 2005”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—JOINT FEDERAL-STATE FLOODPLAIN AND EROSION MITIGATION COMMISSION FOR ALASKA

Sec. 101. Establishment of commission.
Sec. 102. Duties.
Sec. 103. Administration.
Sec. 104. Commission personnel matters.
Sec. 105. Reports.
Sec. 106. Termination of commission.

TITLE II—FLOOD AND EROSION CONTROL AND MITIGATION

Sec. 201. Evaluation and prioritization.
Sec. 203. Mitigation.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

Sec. 301. Authorization of appropriations.

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term “Commission” means the Joint Federal-State Floodplain and Erosion Mitigation Commission for Alaska established by section 101(a).

(2) ALASKA NATIVE.—The term “Alaska Native” has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(3) ALASKA NATIVE VILLAGE.—The term “Alaska Native village” has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

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

(5) STATE.—The term “State” means the State of Alaska.

TITLE I—JOINT FEDERAL-STATE FLOODPLAIN AND EROSION MITIGATION COMMISSION FOR ALASKA

SEC. 101. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the “Joint Federal-State Floodplain and Erosion Mitigation Commission for Alaska”.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members, of whom—

(A) 1 member shall be the Governor of the State, who shall serve as Cochairperson;

(B) 3 members shall be appointed by the Governor of the State, of whom—

(i) 1 member shall be a nonvoting ex officio Alaska Native; and

(ii) at least 1 member shall represent city or borough governments;

(C) 1 shall be appointed by the Secretary, shall be an employee of the Department of the Interior, and shall serve as Cochairperson;

(D) 1 member appointed by the Secretary of Agriculture shall be an employee of the Natural Resources Conservation Service of the Department of Agriculture; and

(E) 1 member, appointed by the Secretary of Defense, shall be an employee of—

(i) the Department of Defense; or

(ii) the Corps of Engineers.

(2) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall serve at the pleasure of the appointing authority.

(3) VACANCIES.—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.

(d) 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.

(e) MEETINGS.—Subject to section 102(a), the Commission shall meet at the call of the Cochairpersons.

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

(g) CONCURRENCE OF COCHAIRPERSONS.—A decision of the Commission shall require the concurrence of the Cochairpersons.

(h) PRINCIPAL OFFICE.—The principal office of the Commission shall be in the State of Alaska.

SEC. 102. DUTIES.

(a) MEETINGS.—For the first 2 years following the date of enactment of this Act, the Commission shall meet not less than 2 times per year.

(b) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a study of all matters relating to—

(A) the feasibility of alternatives for flooding or erosion assistance; and

(B) the development of a policy to guide infrastructure development in the Alaska Native villages, cities, and boroughs that are most affected by flooding or erosion.

(2) MATTERS TO BE STUDIED.—The matters to be studied by the Commission include—

(A) flood and erosion processes;

(B) the planning needs associated with flood and erosion processes, including identifying and making recommendations concerning—

(i) specific flood and erosion circumstances that affect life and property in the State;

(ii) land use regulations, including area standards for designation of flood- and erosion-prone land;

(iii) uses to be made of flood- and erosion-prone land, and how State and Federal grants, loans, and capital improvements shall be invested in designated areas; and

(iv) how to regulate and implement the uses described in clause (iii);

(C) land designated as an allotment for Alaska Native people;

(D) land owned by an Alaska Native village corporation or other corporation or organization under the Alaska Native Claims Settlement Act (Public Law 92-203);

(III) land owned by the Federal or State government;

(IV) city and borough land; and

(V) other private land; and

(3) ways to avoid conflict between the State and Alaska Native people in the allocation of resources;

(7) ensuring that higher priority is given to achieving long-term sustainability of communities from debilitating flood and erosion losses than to short-term project and infrastructure development needs, if the flood and erosion control and mitigation solution is publicly funded; and

(8) ensuring that the economic and social well-being of Alaska Native people and other residents of the State is not compromised by a risk of erosion or flood that could be avoided through long-term planning.

SEC. 103. ADMINISTRATION.

(a) ADVISERS.—To assist the Commission in carrying out this Act, the Cochairpersons shall establish a committee of technical advisers to the Commission with expertise in—

(1) coastal engineering;

(2) the adverse impact of flood and erosion management;

(3) rural community planning in the State;

(4) how city and borough governments are affected by erosion;

(5) the relationship between State and local governments and Alaska Native villages; and

(6) any other interest that the Commission determines is appropriate.

(b) RECORDS.—

(1) IN GENERAL.—The Commission shall maintain complete records of the activities of the Commission.

(2) PUBLIC INSPECTION.—Records maintained under paragraph (1) shall be available for public inspection.

(c) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this title.

(d) INFORMATION FROM FEDERAL AGENCIES.—
lished, the head of the agency shall provide the information to the Commission.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property to carry out the duties of the Commission.

SEC. 104. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) IN GENERAL.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 3315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(2) FEDERAL OR STATE EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal or State government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal or State Government.

(b) 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 chapter 57 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Cochairpersons of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The confirmation of an executive director shall be subject to confirmation by the Commission.

(d) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Cochairpersons of the Commission may fix the compensation of the executive director, 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.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 3318 of title 5, United States Code.

(e) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(1) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

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

(f) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Cochairpersons of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 3315 of that title.

SEC. 105. REPORTS.

(a) INTERIM REPORTS.—Not later than September 30 of each year, the Commission shall submit to Congress, the Secretary, and the legislature of the State a report that describes the activities of the Commission in the preceding calendar year; and

(b) FINAL REPORT.—Not later than September 30, 2011, the Commission shall submit to Congress and the legislature of the State a final report that describes—

(1) the activities and findings of the Commission; and

(2) the recommendations of the Commission for legislation and administrative actions the Commission considers appropriate.

SEC. 106. TERMINATION OF COMMISSION.

The Commission shall terminate on September 30, 2011.

TITLE II—FLOOD AND EROSION CONTROL AND MITIGATION

SEC. 201. EVALUATION AND PRIORITIZATION.

Not later than the date of enactment of this Act and annually thereafter, the Secretary, in consultation with the Commission, shall evaluate and prioritized specific flood and erosion circumstances that affect life and property in the State.

SEC. 202. FLOOD AND EROSION CONTROL AND MITIGATION

(a) IN GENERAL.—Not later than September 15, 2006, the Secretary, in consultation with the Commission, shall examine the most cost-effective ways of carrying out flood and erosion control and mitigation strategies that are feasible, using the most cost effective means practicable to provide the longest-term benefit, including—

(1) relocation; and

(2) elevation.

(b) ALTERNATIVES.—In carrying out a project or activity under this section, the Secretary shall consider—

(1) the design life of structural erosion control projects; and

(2) the cost effectiveness of all erosion control projects and structural erosion control techniques.

(c) GRANTS TO STATE AND LOCAL GOVERNMENTS.—For any fiscal year after fiscal year 2005, the Secretary may make grants to States for projects or activities carried out under this section through a competitive process.

(d) FUNDING.—For any fiscal year after fiscal year 2005, the Com- mission may permit the Secretary to carry out activities under this section through contracts or grants.

(e) LEASING.—The Secretary may provide for the lease of property for the purposes of section 3109 of title 5, United States Code, and the Secretary may use the funds made available for those purposes to purchase any necessary staff.

SEC. 203. MITIGATION.

(a) IN GENERAL.—The Secretary, in consultation with the Commission, may make any action necessary to mitigate the loss of structures and infrastructure from flood and erosion using the most cost effective means practicable to provide the longest-term benefit, including—
The people of Alaska and Hawaii have long memories of the threat of tsunami. Perhaps it is because Hawaii sits in a position of terrible vulnerability in the Pacific Ocean, which is the site of 85 percent of the world’s tsunami activity, and because Alaska, perched on the northern edge of the Pacific’s Ring of Fire, suffers frequent tsunami-generating earthquakes.

In order to protect local communities, the United States established in 1949 a tsunami warning center, following a tragic Hilo tsunami. In response to the Good Friday earthquake and tsunami of 1964, which accounted for 90 percent of the deaths in the state that year, Alaska followed suit by establishing an observatory in Palmer, Alaska, in 1967.

Collaborations between the two centers and other partners led to a nascent capacity for predicting and warning coastal communities about potential tsunami in Alaska and Hawaii and beyond.

As we came to understand the broader threat that tsunami posed, Ted Stevens and I worked together to pass legislation in 1994 to direct the National Oceanic and Atmospheric Administration (NOAA) to develop a Tsunami Hazard Mitigation Program.

We are pleased to report that the program has laid the foundation for tsunami preparedness. Through its Pacific Marine Environmental Laboratory (PMEL), NOAA has developed deep ocean assessment and reporting of tsunami—or “DART” buoys—and comprehensive tsunami warning systems for coastal communities in this region, as well as in Asia, Indonesia, and Japan.

These measurements, as well as readings from coastal gauges, the mathematical models PMEL and others have developed can forecast tsunami direction, speed, and inundation with astonishing accuracy. Although the worldwide network of seismic sensors operated by the U.S. Geological Survey (USGS) provides excellent notice of earthquakes with the potential to generate tsunami, the DART buoys represent a next-generation approach to detection and forecasting of tsunami that will form the backbone of our domestic preparedness.

Interpreting these data and issuing warnings are Hawaii’s Pacific Tsunami Warning Center, and Alaska’s West Coast/Alaska Tsunami Warning Center, which jointly have the capacity to cover our domestic shores, and, at the same time, to reach out to all cooperating national and international authorities.

Forecasting and warning networks, however, depend on ears who know how to respond, and so the Tsunami Hazard Mitigation Program has partnered with state and federal authorities to produce inundation mapping, develop evacuation routes, and conduct tsunami education. As a result of much hard work, fifteen counties up and down the west coast, and in Alaska and Hawaii have become national and world leaders by becoming “tsunami ready.”

The appalling scope of the Indian Ocean tragedy illustrates the importance and necessity of our work of the past ten years, and with stark clarity, we can see that despite our best efforts, much remains to be done. Now, as before, Senator Stevens and I have come together to lead the charge toward national and international tsunami preparedness.

Our legislation today formally authorizes NOAA to establish, operate, and maintain a dependable national tsunami warning system that would provide rapid tsunami detection capability for the nation. The system would be enhanced by the model established in the Pacific, and provide for its repair, expansion and modernization by the close of calendar year 2007. The system would include four components: an expanded and upgraded detection and warning system, a federal-state tsunami hazard mitigation program, a tsunami research program, and a modernization and upgrade program. In addition, the bill would direct NOAA to provide any necessary technical assistance to international entities as part of an international effort to develop a fully functional global tsunami warning system.

Finally, the bill authorizes $35 million annually for six years to support these activities. Through this legislation, the work Senator Stevens and I started over ten years ago will step up to the next level, and provide our nation with coverage and protection that it needs, while fulfilling our duties as citizens of the global community.

I ask unanimous consent that the full 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. 50

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SEC. 1. SHORT TITLE. This Act may be cited as the “Tsunami Preparedness Act”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

1. Tsunami are a series of large waves of long wavelength created by the displacement of water by violent undersea disturbances such as earthquakes, volcanic eruptions, landslides, explosions, and the impact of cosmic bodies.

2. Tsunami have caused, and can cause in the future, enormous loss of human life, injury, destruction of property, and economic and social disruption in coastal and island communities.

3. While 85 percent of tsunami occur in the Pacific Ocean, and coastal and island communities in this region are the most vulnerable to the destructive results, tsunami can occur at any point in any ocean or related body of water where there are earthquakes, volcanoes, or any other activity that displaces a large volume of water.

4. A number of State and territories are subject to the threat of tsunami, including Alaska, California, Hawaii, Oregon, Washington, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands.
(5) The National Oceanic and Atmospheric Administration is responsible for maintaining a tsunami detection and warning system for the Nation, issuing warnings to United States coastal communities at risk from tsunamis, and preparing those communities to respond appropriately, through—

(A) the Pacific Tsunami Warning Center in Ewa Beach, Hawaii, which serves as the operational center for Hawaii, all other United States assets in the Pacific, and Puerto Rico;

(B) the Alaska/West Coast Tsunami Warning Center in Alaska, which is responsible for issuing warnings for Alaska, British Columbia, California, Oregon, and Washington;

(C) the Federal-State national tsunami hazard mitigation program;

(D) a tsunami research and assessment program, conducted by the Pacific Marine Environmental Laboratory; and

(E) the TsunamiReady Program, which educates and prepares communities for survival before and during a tsunami; and

(F) other related programs.

(6) The National Oceanic and Atmospheric Administration also represents the United States on the International Coordination Group for the Tsunami Warning System in the Pacific, administered by the Intergovernmental Oceanographic Commission of UNESCO, and the Western Pacific Regional Tsunami Warning Facility, which the Pacific Tsunami Warning Center acts as the operational center and shares seismic and water level information with the Western Pacific states and maintains UNESCO’s Information Technology and Communication Center, in Honolulu, Hawaii, which provides technical and educational assistance to member states.

(7) The Tsunami Warning Centers receive seismographic information from the Global Seismic Network, an international system of earthquake observation stations, from the United States Geological Survey National Earthquake Information Center, and from the regional seismic networks of the Western Pacific region, including, but not limited to, the Caribbean region, and South America, the Mediterranean Sea, and the Caribbean, pose risks for coastal and island communities.

(8) The tragic and extreme loss of life experienced by countries in the Indian Ocean following the magnitude 9.0 earthquake and resulting tsunami in that region on December 26, 2004, and the destructive consequences which can occur in the absence of an effective tsunami warning and notification system.

(9) An effective tsunami warning and notification system is part of a multi-hazard disaster warning and preparedness program and requires near real-time seismic, sea level, and oceanographic data, high-speed data analysis capabilities, a high-speed tsunami warning communication system, a sustained program of education and risk assessment, and an established national and international infrastructure to identify tsunami hazards.

(10) The Pacific Tsunami Warning Center is the Federal membership of the International Coordination Group for the Tsunami Warning System in the Pacific, administered by the Intergovernmental Oceanographic Commission of UNESCO, which is responsible for issuing warnings to Alaska, British Columbia, California, Oregon, and Washington.

(11) The National Oceanic and Atmospheric Administration is responsible—

(A) to improve tsunami detection, forecast, warnings, notification, preparedness, and mitigation in order to protect life and property both in the United States and elsewhere in the world;

(B) to improve and modernize the existing Pacific Tsunami Warning System to increase coverage, reduce false alarms and increase accuracy of forecasts and warnings, and expand the capability of the system to include other vulnerable States and United States territories, including the Caribbean/Atlantic/Gulf region;

(C) to improve Federal, State, and international cooperation in tsunami warning and preparedness;

(D) to provide technical and other assistance to strengthen tsunami warning and preparedness systems in vulnerable areas worldwide, including the Indian Ocean, and

(E) to improve Federal, State, and international cooperation in the development of coastal disaster warning and preparedness.

SEC. 3. TSUNAMI DETECTION AND WARNING SYSTEM.

(a) In General.—The Administrator of the National Oceanic and Atmospheric Administration shall operate regional tsunami detection and warning systems for the Pacific Ocean, the Caribbean Sea, and the Gulf of Mexico to provide maximum detection capability of each tsunami warning center shall include—

(A) continuously monitoring data from seismological, deep ocean, and tidal monitoring stations for indications of tsunami resulting from sources other than earthquakes; and

(B) disseminating information and warning bulletins appropriate for local and distant coastal areas for evacuation.

(b) System Requirements.—In carrying out this section, the Administrator shall—

(1) develop, and execute a plan for the transfer of technology from ongoing research to ongoing operations, the system designed for the regional tsunami detection and warning systems;

(2) ensure that detection equipment is maintained in operational condition to fulfill the forecasting, detection and warning elements of the regional tsunami detection and warning systems;

(3) ensure that detection equipment is brought to repairable, priority treatment in budgeting for, and that equipment is maintained in operational condition to fulfill the forecasting, detection and warning elements of the regional tsunami detection and warning systems;

(4) obtain, to the greatest extent practicable, priority treatment in budgeting for, acquiring, transporting, storing, maintaining weather sensors, tide gauges, water level gauges, and tsunami buoys incorporated into the system including obtaining ship time; and

(5) implement a tsunami disaster warning system with State and local governments, the Federal government, and the private sector through the National Tsunami Warning System, the Tsunami Warning Center, the International Tsunami Warning System, the Global Seismic Network, the United Nations Environment Program, the World Meteorological Organization, the United Nations Educational, Scientific and Cultural Organization, the International Union of Geological Sciences, and the National Oceanic and Atmospheric Administration.

(c) Transfer of Technology; Maintenance and Upgrades.—In carrying out this section, the Administrator shall—

(1) promulgate specifications and standards for forecast, detection, and warning systems, including detection equipment;

(2) develop and execute a plan for the transfer of technology from ongoing research to ongoing operations, the system designed for the regional tsunami detection and warning systems, to government agencies and the public and alerting potentially impacted coastal areas for evacuation.

(d) Oceanographic and Geological Monitoring; Maintenance and Upgrades.—In carrying out this section, the Administrator shall—

(1) to improve Federal, State, and international cooperation in tsunami warning and preparedness.

(e) The responsibilities of each tsunami warning center shall include—

(1) to improve tsunami detection, forecast, warnings, notification, preparedness, and mitigation in order to protect life and property both in the United States and elsewhere in the world;

(2) to improve and modernize the existing Pacific Tsunami Warning System to increase coverage, reduce false alarms and increase accuracy of forecasts and warnings, and expand the capability of the system to include other vulnerable States and United States territories, including the Caribbean/Atlantic/Gulf region;

(3) to increase and accelerate mapping, modeling, research, assessment, education, and outreach efforts in order to improve forecasting, preparedness, mitigation, response, and recovery of tsunami and related coastal hazards;

(4) to provide technical and other assistance to speed international efforts to establish tsunami warning systems in vulnerable areas worldwide, including the Indian Ocean, and

(5) to improve Federal, State, and international cooperation in the development of coastal disaster warning and preparedness.

(12) Tsunami warning and preparedness capability can be developed in other vulnerable regions by identifying tsunami hazard zones, educating populations, developing alert and notification communications infrastructure, developing tsunami detection sensors and gauges, establishing hazard communication and warning networks, expanding global monitoring of seismic activity, and facilitating exchange of seismic and tide data between nations, and improving international coordination when a tsunami occurs.

(13) UNESCO has recognized the need to establish tsunami warning systems for regions beyond the Pacific Basin that are vulnerable to tsunamis originating in the Indian Ocean, and has convened a working group to lead an effort to expand the International Tsunami Warning System in the Pacific to such vulnerable regions.

(14) The international community and all vulnerable nations should take coordinated efforts to establish and participate in regional tsunami warning systems and other hazard warnings systems developed to meet the goals of the United Nations International Strategy for Disaster Reduction.

(b) Purposes.—The purposes of this Act are—

(1) to improve tsunami detection, forecast, warnings, notification, preparedness, and mitigation in order to protect life and property both in the United States and elsewhere in the world;

(2) to improve and modernize the existing Pacific Tsunami Warning System to increase coverage, reduce false alarms and increase accuracy of forecasts and warnings, and expand the capability of the system to include other vulnerable States and United States territories, including the Caribbean/Atlantic/Gulf region;

(3) to increase and accelerate mapping, modeling, research, assessment, education, and outreach efforts in order to improve forecasting, preparedness, mitigation, response, and recovery of tsunami and related coastal hazards;

(4) to provide technical and other assistance to speed international efforts to establish tsunami warning systems in vulnerable areas worldwide, including the Indian Ocean, and

(5) to improve Federal, State, and international cooperation in tsunami warning and preparedness.

(c) Transfer of Technology; Maintenance and Upgrades.—In carrying out this section, the Administrator shall—

(1) promulgate specifications and standards for forecast, detection, and warning systems, including detection equipment;

(2) develop and execute a plan for the transfer of technology from ongoing research to ongoing operations, the system designed for the regional tsunami detection and warning systems, to government agencies and the public and alerting potentially impacted coastal areas for evacuation.

(d) Oceanographic and Geological Monitoring; Maintenance and Upgrades.—In carrying out this section, the Administrator shall—

(1) to improve Federal, State, and international cooperation in tsunami warning and preparedness.

(e) The responsibilities of each tsunami warning center shall include—

(1) to improve tsunami detection, forecast, warnings, notification, preparedness, and mitigation in order to protect life and property both in the United States and elsewhere in the world;

(2) to improve and modernize the existing Pacific Tsunami Warning System to increase coverage, reduce false alarms and increase accuracy of forecasts and warnings, and expand the capability of the system to include other vulnerable States and United States territories, including the Caribbean/Atlantic/Gulf region;

(3) to increase and accelerate mapping, modeling, research, assessment, education, and outreach efforts in order to improve forecasting, preparedness, mitigation, response, and recovery of tsunami and related coastal hazards;

(4) to provide technical and other assistance to speed international efforts to establish tsunami warning systems in vulnerable areas worldwide, including the Indian Ocean, and

(5) to improve Federal, State, and international cooperation in the development of coastal disaster warning and preparedness.

(6) The national tsunami hazard mitigation program is responsible for issuing warnings to Alaska, British Columbia, California, Oregon, and Washington.

(7) The Tsunami Warning Centers receive seismographic information from the Global Seismic Network, an international system of earthquake observation stations, from the United States Geological Survey National Earthquake Information Center, and from the regional seismic networks of the Western Pacific region, including, but not limited to, the Caribbean region, and South America, the Mediterranean Sea, and the Caribbean, pose risks for coastal and island communities.

(8) The tragic and extreme loss of life experienced by countries in the Indian Ocean following the magnitude 9.0 earthquake and resulting tsunami in that region on December 26, 2004, and the destructive consequences which can occur in the absence of an effective tsunami warning and notification system.

(9) An effective tsunami warning and notification system is part of a multi-hazard disaster warning and preparedness program and requires near real-time seismic, sea level, and oceanographic data, high-speed data analysis capabilities, a high-speed tsunami warning communication system, a sustained program of education and risk assessment, and an established national and international infrastructure for timely and effective dissemination of warnings to activate evacuation of tsunami hazard zones.

(10) The Pacific Tsunami Warning Center is the Federal membership of the International Coordination Group for the Tsunami Warning System in the Pacific, administered by the Intergovernmental Oceanographic Commission of UNESCO, which is responsible for issuing warnings to Alaska, British Columbia, California, Oregon, and Washington.

(11) An effective tsunami warning system for the Pacific is a model for other regions of the world to adopt, and can be expanded and modernized to increase detection, forecast, and warning capabilities of the states and territories, and reduce the incidence of costly false alarms, improve reliability of measurement and assessment technology, and increase community preparedness.

(12) Tsunami warning and preparedness capability can be developed in other vulnerable regions by identifying tsunami hazard zones, educating populations, developing alert and notification communications infrastructure, developing tsunami detection sensors and gauges, establishing hazard communication and warning networks, expanding global monitoring of seismic activity, and facilitating exchange of seismic and tide data between nations, and improving international coordination when a tsunami occurs.

(13) UNESCO has recognized the need to establish tsunami warning systems for regions beyond the Pacific Basin that are vulnerable to tsunamis originating in the Indian Ocean, and has convened a working group to lead an effort to expand the International Tsunami Warning System in the Pacific to such vulnerable regions.

(14) The international community and all vulnerable nations should take coordinated efforts to establish and participate in regional tsunami warning systems and other hazard warnings systems developed to meet the goals of the United Nations International Strategy for Disaster Reduction.
or expended for the acquisition of services for construction or deployment of tsunami detection equipment unless the Administrator certifies in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science within 60 calendar days after the date on which the President submits the Budget of the United States for that fiscal year to the Congress that—

(1) each contractor for such services has met all requirements of the contract for such construction or deployment;

(2) the equipment to be constructed or deployed is capable of becoming fully operational within 3 years of the obligation of additional appropriated funds; and

(3) the Administrator does not reasonably foresee unanticipated delays in the deployment and operational schedule specified in the contract.

SEC. 4. TSUNAMI HAZARD MITIGATION PROGRAM.

(a) IN GENERAL.—The Administrator of the National Oceanic and Atmospheric Administration is authorized to conduct a community-based tsunami hazard mitigation program to improve tsunami preparedness of at-risk zones.

(b) COORDINATING COMMITTEE.—In conducting the program, the Administrator shall establish a coordinating committee composed of—

(1) the National Oceanic and Atmospheric Administration;

(2) the United States Geological Survey;

(3) the Federal Emergency Management Agency;

(4) the National Science Foundation; and

(5) affected coastal States and territories.

(c) PROGRAM COMPONENTS.—The program shall—

(1) improve the quality and extent of inundation mapping, including assessment of vulnerable coastal areas,

(2) promote and improve community outreach and education networks and programs to ensure community readiness, including the development of multi-hazard risk and vulnerability assessment training and decision support tools, implementation of technical training and public education programs, and certification of prepared communities,

(3) integrate tsunami preparedness and mitigation programs into ongoing hazard warning and emergency management programs for affected areas including the National Response Plan;

(4) promote the adoption of tsunami warning and mitigation measures by Federal, State, tribal, and local governments and non-governmental entities through a grant program for training, development of guidelines, and other purposes;

(5) through the Federal Emergency Management Agency as the lead agency, develop tsunami specific rescue and recovery guidelines and the Response Plan, including long-term mitigation measures, educational programs to discourage development in high-risk areas, and use of remote sensing and other technology in rescue and recovery operations;

(6) require budget coordination, through the Administration, to carry out the purposes of this Act and to ensure that participating agencies provide necessary funds for matters within their respective areas of authority and expertise;

(7) provide for periodic external review of the program and for inclusion of the results of such reviews in the report required by section 9.

SEC. 5. TSUNAMI RESEARCH PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the National Oceanic and Atmospheric Administration shall, in coordination with other agencies and academic institutions, establish a tsunami research program to develop detection, prediction, communication, and mitigation science and technology that supports tsunami forecasts and warnings, including advanced sensing techniques, information and communication technology, data collection and analysis for tsunami tracking and numerical forecast modeling that will—

(1) help determine—

(A) whether an earthquake or other seismic event will result in a tsunami, and

(B) the likely path, severity, duration, and travel time of a tsunami;

(2) develop technologies and technologies that may be used to communicate tsunami forecasts and warnings as quickly and effectively as possible to affected communities;

(3) develop techniques and technologies to support evacuation products, including real-time notice of the condition of critical infrastructure along tsunami evacuation routes for public officials and first responders; and

(4) develop techniques for utilizing remote sensing technologies in rescue and recovery operations.

(b) COMMUNICATIONS TECHNOLOGY.—The Administrator, in consultation with in consultation with the Assistant Secretary of Commerce for Conservation and Enforcement and the Federal Communications Commission, shall investigate the potential for improved communications systems for tsunami and other hazard warnings by incorporating into the existing network a full range of options for providing those warnings to the public, including, as appropriate—

(1) telephones, including special alert ringer bells;

(2) wireless and satellite technology, including cellular telephones and pagers;

(3) the Internet, including e-mail;

(4) automatic alert television and radios; and

(5) innovative and low-cost combinations of such technologies that may provide access to remote areas; and

(6) other technologies that may be developed.

SEC. 6. TSUNAMI SYSTEM UPGRADE AND MODERNIZATION.

(a) SYSTEM UPGRADES.—The Administrator of the National Oceanic and Atmospheric Administration shall—

(1) authorize and direct the immediate repair of existing deep ocean detection buoys and related communications systems;

(2) ensure the deployment of a pair of existing deep ocean detection buoys in the regions described in section 3(a) of this Act;

(3) ensure expansion or upgrade of the tide gauge network in the regions described in section 3(a); and

(4) complete the upgrades not later than December 31, 2007.

(b) CONGRESSIONAL NOTIFICATIONS.—The Administrator shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science of—

(1) impaired regional detection coverage due to equipment or system failures; and

(2) significant contractor failures or delays in completing work associated with the tsunami detection and warning system.

(c) ANNUAL REPORT.—The Administrator shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science of—

(1) impaired regional detection coverage due to equipment or system failures; and

(2) significant contractor failures or delays in completing work associated with the tsunami detection and warning system.

SEC. 7. GLOBAL TSUNAMI WARNING AND MITIGATION NETWORK.

(a) INTERNATIONAL TSUNAMI WARNING SYSTEM.—The Administrator of the National Oceanic and Atmospheric Administration, in coordination with other members of the National Oceanic and Atmospheric Administration, shall participate in efforts to enhance the International Tsunami Warning System of the Pacific.

(b) DETECTION EQUIPMENT; TECHNICAL ADVISE.—In carrying out this section, the Administrator—

(1) shall give priority to assisting nations in identifying vulnerable coastal areas, creating inundation mapping programs for reporting equipment and warning network reports, and establishing communication and warning networks and contact points in each vulnerable nation; and

(2) may establish a process for transfer of detection and communication technology to nations with the purpose of establishing the international tsunami warning system.

(c) DATA-SHARING REQUIREMENT.—The Administrator may not provide assistance under this section for any region unless all affected nations in that region participating in the tsunami warning network agree to provide data, information, and equipment and other support necessary to the development and operation of the network.

(d) RECEIPT OF INTERNATIONAL REIMBURSEMENT AUTHORIZED.—The Administrator may accept reimbursement or reimbursement made on behalf of such an authority, for expenses incurred by the Administrator in carrying out any activity under this Act. Any such payments or reimbursements shall be considered a reimbursement to, or reimbursement made on behalf of, the National Oceanic and Atmospheric Administration in cash or in kind from international organizations, foreign authorities, or any other source or reimbursement made on behalf of such an authority, for expenses incurred by the Administrator in carrying out any activity under this Act. Any such payments or reimbursements shall be considered a reimbursement to, or reimbursement made on behalf of, the National Oceanic and Atmospheric Administration in cash or in kind from international organizations, foreign authorities, or any other source.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator of the National Oceanic and Atmospheric Administration $35,000,000 for each of fiscal years 2006 through 2012 to carry out this Act.

Mr. President, the Tsunami Preparedness Act, S. 50, will authorize much of the work that Senator Inouye and I have done on the Appropriations Committee. It establishes a National Tsunami Hazard Mitigation Program in the National Oceanic and Atmospheric Administration. The recent
events in Indonesia reminds us all how critical it is to have a strong detection network and warning system for coastal communities. Currently there are 15 communities from Alaska, the west coast and Hawaii that are “Tsunami Ready”, a certification by NOAA that the community has an emergency preparedness plan and coordination plan in case of a Tsunami event.

The Tsunami Preparedness Act provides the essential component of any warning system—a program for outreach in order to inform potentially Tsunami-impacted communities and for these coastal areas to plan accordingly.

I have worked closely with Senator INOUYE on this legislation and it is an example of how we plan to coordinate on bills from the Commerce Committee. This legislation also represents the importance of tsunami detection and early warning for our States, both of which have experienced deadly tsunamis in the past and are ever vigilant to remain prepared for future possible events.

The administration released its plan for an improved tsunami monitoring system on January 14, 2005, committing to the goal of improving early detection and warning of tsunami events. The administration’s proposal is a good one and this bill will build on many of the commitments made in their plan. In addition, the bill improves the federal coordination and dissemination of tsunami information and research. It establishes a multi-agency task force consisting of representatives from NOAA, FEMA, USGS, NSF and potentially impacted coastal states and territories.

The tsunami preparedness act will expand tsunami research, and consistently upgrade and maintain the improved system, which would cover the Pacific and Atlantic-Caribbean-Gulf of Mexico regions. In an effort to lend help and education, the bill also directs NOAA to assist other countries that could be impacted by tsunamis and build on the United States efforts to establish an international earth observing system.

It is a pleasure to work with my good friend from Hawaii on this important legislation.

By Mr. INOUYE:

S. 58. A bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

Mr. INOUYE, Mr. President, today I am reintroducing a bill which is of great importance to a group of patriotic Americans. This legislation is designed to provide those former prisoners of war who have been totally disabled and who have been totally disabled in the service of our country.

Currently, retired members of the Armed Services are permitted to travel on a space-available basis on non-scheduled military flights within the continental United States, and on scheduled overseas flights operated by the Military Airlift Command. My bill would modify the definition of former prisoners of war to include those veterans with 100 percent service-connected disabilities. We owe these heroic men and women who have given so much to our country a debt of gratitude. Of course, we can never repay them for the sacrifices they have made on behalf of our Nation, but we can surely try to make their lives more pleasant and fulfilling. One way in which we can help is to extend military travel privileges to these distinguished American veterans. I have received numerous letters from all over the country attesting to the importance attached to this issue by veterans. Therefore, I ask that my colleagues show their concern and join me in saying ‘thank you’ by supporting this legislation.

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

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

S. 58

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

SECTION 1. TRAVEL ON MILITARY AIRCRAFT OF CERTAIN DISABLED FORMER MEMBERS OF THE ARMED FORCES.

(a) In General.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1060b the following new section:

"§ 1060c. Travel on military aircraft: certain disabled former members of the armed forces

‘‘The Secretary of Defense shall permit any former member of the armed forces who is entitled to compensation under the laws administered by the Secretary of Veterans Affairs for a service-connected disability rated as total to travel, in the same manner and to the same extent as retired members of the armed forces, on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Air Mobility Command. The Secretary of Defense shall permit such travel on a space-available basis.’’.

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1060b the following new item:

‘‘1060c. Travel on military aircraft: certain disabled former members of the armed forces.’’.

By Mr. INOUYE:

S. 59. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores; to the Committee on Armed Services.

Mr. INOUYE, Mr. President, today I am reintroducing legislation to enable those former prisoners of war who have received a disability rating for their respective services and who have been rated as having a 30 percent service-connected disability to have the use of both the military commissary and post exchange privileges. While I realize it is impossible to adequately compensate one who has endured long periods of incarceration at the hands of our Nation’s enemies, I do feel this gesture is both meaningful and important to those concerned because it serves as a reminder that our Nation has not forgotten their sacrifices.

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

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

S. 59

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

SECTION 1. USE OF COMMISARY AND EXCHANGE STORES BY CERTAIN DISABLED FORMER PRISONERS OF WAR.

(a) In General.—Chapter 54 of title 10, United States Code, is amended by inserting after section 1064 the following new section:

"§ 1064a. Use of commissary and exchange stores by certain disabled former prisoners of war

‘‘(a) In General.—Under regulations prescribed by the Secretary of Veterans Affairs, former prisoners of war described in subsection (b) may use commissary and exchange stores.

‘‘(b) Covered Individuals.—Subsection (a) applies to any former prisoner of war who—

‘‘(1) separated from active duty in the armed forces under honorable conditions; and

‘‘(2) has a service-connected disability rated by the Secretary of Veterans Affairs at 30 percent or more.

(c) Definitions.—In this section:

‘‘(1) The term ‘former prisoner of war’ has the meaning given that term in section 101(32) of title 38.

‘‘(2) The term ‘service-connected’ has the meaning given that term in section 101(16) of title 38.’’.

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1064 the following new item:

‘‘1064a. Use of commissary and exchange stores by certain disabled former prisoners of war.’’.

By Mr. FEINGOLD:

S. 60. A bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress; to the Committee on Homeland Security and Governmental Affairs.

Mr. FEINGOLD. Mr. President, I am pleased to reintroduce legislation that would put an end to automatic cost-of-living adjustments for congressional pay.

As I have noted when I raised this issue in past years, it is an unusual thing to have the power to raise our own pay. Most of our constituents do not have that power. And that this power is so unusual is good reason for the Congress to exercise that power openly, and to exercise it subject to regular procedures that include debate, amendment, and a vote on the record.

I regret to say, that current law permits Congress to avoid that public debate and vote. All that is necessary for Congress to get a pay raise is that...
nothing be done to stop it. The annual pay raise takes effect unless Congress acts.

This stealth pay raise mechanism began with a change Congress enacted in the Ethics Reform Act of 1989. In section 103, the Senate voted to make themselves entitled to an annual raise equal to half a percentage point less than the employment cost index, one measure of inflation.

It is true, that on occasion Congress has voted to deny itself the raise, and the traditional vehicle for the pay raise vote is the Treasury appropriations bill. But that vehicle is not always made available to those who want a public debate and vote on the matter. Just last year, for example, the Treasury appropriations bill was slipped into the massive Omnibus Appropriations conference report, and thus it was completely shielded from amendment. Senators were effectively prevented from offering amendments to force up or down vote on the annual pay raise. And that situation was not unique.

Getting a vote on the annual congressional pay raise is a haphazard affair at best, and it should not be that way. The raise should not be on those who seek a public debate and recorded vote on the Member pay raise. On the contrary, Congress should have to act if it decides to award itself a hike in pay. This process of pay raises without accountability must end.

This issue is not a new question. It was something that our Founders considered from the beginning of our Nation. In August 1789, as part of the package of 12 amendments advocated by James Madison that included what has become our Bill of Rights, the House of Representatives passed an amendment to the Constitution providing that Congress could not raise its pay without an intervening election. On September 9, 1789, the Senate passed that amendment. In late September 1789, Congress submitted the amendments to the States.

Although the amendment on pay raises languished for two centuries, in the 1980s, a campaign began to ratify it. While I was a member of the Wisconsin State Senate, I was proud to help ratify the amendment. Its approval by the Michigan Legislature on May 7, 1992, gave it the needed approval by three-fourths of the States.

The 27th amendment to the Constitution now states: ‘‘No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened.’’

I try to honor that limitation in my own practices. In my own case, throughout my 6-year term, I accept only the rate of pay that Senators receive on the date on which I was sworn in as a Senator. As I return to the Treasury any additional income Senators get, whether from a cost-of-living adjustment or a pay raise we vote for ourselves, I don’t take a raise until my bosses, the people of Wisconsin, give me one at the ballot box. That is the spirit of the 27th amendment. The stealth pay raises like the one that Congress allowed last year, at a minimum, certainly violate the spirit of that amendment.

This practice must end. This bill will end it. Senators and Congressmen should have to vote up-or-down to raise congressional pay. My bill would simply require us to vote in the open. We owe our constituents nothing less.

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. 60
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) In General.—Section 60(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 60(a)) is amended—

(1) by striking ‘‘(a)(1)’’ and inserting ‘‘(a):’’;

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

(3) by striking ‘‘as adjusted by paragraph (2) of this subsection’’ and inserting ‘‘adjusted as provided by law’’.

(c) EFFECTIVE DATE.—This section shall take effect on February 1, 2007.

By Mr. INOUYE:
S. 61. A bill to amend title XVII of the Social Security Act to provide improved reimbursement for clinical social worker services under the medicare program; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing a bill to amend Title XVIII of the Social Security Act to correct discrepancies in the reimbursement of clinical social workers covered through Medicare, Part B. The three proposed changes contained in this legislation clarify the current payment process for clinical social workers and establish a reimbursement methodology for the profession that is similar to other health care professionals reimbursed through the Medicare program.

First, this legislation sets payment for clinical social worker services according to a fee schedule established by the Secretary. Second, it explicitly states that services and supplies furnished by a clinical social worker are a covered Medicare expense, just as these services are covered for other mental health professionals in Medicare. Third, the bill allows clinical social workers to be reimbursed for services provided to a client who is hospitalized.

Clinical social workers are valued members of our health care provider network. They are legally regulated in every state of the nation and are recognized as independent providers of mental health care throughout the health care system. It is time to correct the disparate reimbursement treatment of this profession under Medicare.

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

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

S. 61
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 ‘‘Equity for Clinical Social Workers Act of 2005’’.

SEC. 2. IMPROVED REIMBURSEMENT FOR CLINICAL SOCIAL WORKER SERVICES UNDER MEDICARE.

(a) In General.—Section 1395l(a)(1)(F)(i) of the Social Security Act (42 U.S.C. 1395l(a)(1)(F)(i)) is amended to read as follows: ‘‘(i) the amount determined by a fee schedule established by the Secretary;’’.

(b) APPLICATION OF CLINICAL SOCIAL WORKER SERVICES EXPANDED.—Section 1861(b)(2) of the Social Security Act (42 U.S.C. 1861(b)(2)) is amended by striking ‘‘services performed by a clinical social worker (as defined in paragraph (1))’’ and inserting ‘‘such services and such supplies and services furnished as an incident to such services performed by a clinical social worker (as defined in paragraph (1))’’.

(c) CLINICAL SOCIAL WORKER SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1832(a)(1)(B)(iii) of the Social Security Act (42 U.S.C. 1832(a)(1)(B)(iii)) is amended by striking ‘‘and services’’ and inserting ‘‘clinical social worker services, and services’’.

(d) TREATMENT OF SERVICES FURNISHED IN INPATIENT SETTING.—Section 1395x(b)(4) of the Social Security Act (42 U.S.C. 1395x(b)(4)) is amended by striking ‘‘and services’’ and inserting ‘‘clinical social worker services, and services’’.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made for clinical social worker services furnished on or after January 1, 2006.

By Mr. INOUYE:
S. 62. A bill for the relief of Jim K. Yoshida; to the Committee on Veterans’ Affairs.

Mr. INOUYE. Mr. President, today I am introducing a private relief bill on behalf of Jim K. Yoshida, to obtain recognition of his service with the U.S. military in Korea so that he may obtain veteran’s status.

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

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

S. 62
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. VETERAN STATUS.

(a) ENTITLEMENT TO STATUS.—Notwithstanding any other provision of law, Jim K. Yoshida of Honolulu, Hawaii, is deemed to be a veteran for the purposes of all laws administered by the Secretary of Veterans Affairs.

(b) TREATMENT OF SERVICE.—Notwithstanding any other provision of law, the service of Jim K. Yoshida of Honolulu, Hawaii, as a volunteer member of the United States military, is considered active duty service.

Yoshida; to the Committee on Veterans’ Affairs.
By Mr. BINGAMAN (for himself and Mr. DOMENICI)
S. 63, to establish the Northern Rio Grande National Heritage Area in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to reintroduce legislation to establish the Northern Rio Grande National Heritage Area in northern New Mexico. I am pleased that Senator DOMENICI is again joining me in sponsoring this bill. The Northern Rio Grande National Heritage Area will be established as part of a collaborative effort between local residents, Indian tribes, businesses and local governments, who are working together to preserve the area.

By establishing the Northern Rio Grande National Heritage Area, I hope to commemorate the significant but complex heritage of northern New Mexico communities and Indian tribes, from the pre-Spanish colonization period to present day. Establishing a National Heritage Area will benefit the northern New Mexico communities, local residents, students, and visitors, as well as help the local protection and interpretation of the unique cultural, historical, and natural resources of northern New Mexico.

Last Congress, identical legislation passed the Senate by unanimous consent and again as part of a comprehensive heritage bill. The House of Representatives did not extend the bill and add authorizations for other heritage areas but unfortunately the different versions were not able to be reconciled prior to the sine die adjournment of the Congress. However, I am encouraged that the Senate and House have each approved authorization for the Northern Rio Grande National Heritage Area, and it is my hope that since both Houses have now passed legislation that is essentially identical to the bill I am introducing today, it can be swiftly considered and enacted into law.

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. 63

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

SEC. 1. SHORT TITLE.
This Act may be cited as the “Northern Rio Grande National Heritage Area Act”.

SEC. 2. CONGRESSIONAL FINDINGS.
The Congress finds that—
(1) northern New Mexico encompasses a mosaic of cultures and history, including the ancestral homes of Spanish, Mexican, and Native American ancestors who settled in the area in 1598;
(2) the combination of cultures, languages, folk arts, customs, and architecture make northern New Mexico unique;
(3) the area includes spectacular natural, scenic, and recreational resources;
(4) there is broad support from local government and national organizations for the establishment of a National Heritage Area, including conducting a comprehensive archaeological and historical research program, coordinating a comprehensive interpretation program, and interpreting a cultural heritage scene; and
(5) the Senate and House have now passed identical legislation that is essentially identical to the action of this Act with respect to any period before the date of the enactment of this Act.

SEC. 3. DEFINITIONS.
As used in this Act—
(1) the term "heritage area" means the Northern Rio Grande Heritage Area; and
(2) the term "Secretary" means the Secretary of the Interior.

SEC. 4. NORTHERN RIO GRANDE NATIONAL HERITAGE AREA.
(a) ESTABLISHMENT.—There is hereby established the Northern Rio Grande National Heritage Area in northern New Mexico.
(b) BOUNDARIES.—The heritage area shall include the counties of Santa Fe, Rio Arriba, and Taos.
(c) MANAGEMENT ENTITY.—
(1) The Northern Rio Grande Heritage Area, Inc., a non-profit corporation chartered in the State of New Mexico, shall serve as the management entity for the heritage area.
(2) The Board of Directors for the management entity shall include representatives of the State of New Mexico, the counties of Santa Fe, Rio Arriba and Taos, tribes and pueblos within the heritage area, the cities of Santa Fe, Española and Taos, and members of local, State, and other public and private entities.

SEC. 5. AUTHORITY AND DUTIES OF THE MANAGEMENT ENTITY.
(a) MANAGEMENT PLAN.
(1) Not later than 3 years after the date of enactment of this Act, the management entity shall develop and forward to the Secretary a management plan for the heritage area.
(2) The management entity shall develop and implement the management plan in cooperation with affected communities, tribal and local governments and shall provide for public involvement in the development and implementation of the management plan.
(3) The management plan shall, at a minimum—
(A) provide recommendations for the conservation, funding, management, and development of the heritage area;
(B) identify sources of funding;
(C) include an inventory of the cultural, historical, archaeological, natural, and recreational resources of the heritage area; and
(D) provide recommendations for educational and interpretive programs to inform the public about the resources of the heritage area; and
(E) include an analysis of ways in which local, State, Federal, and tribal programs may be coordinated to promote the purposes of this Act.

(c) PROSPECTIVE APPLICABILITY.—No benefits may be paid or otherwise provided to the Secretary of Veterans Affairs.

(b) AUTHORITY.—The management entity may make grants and provide technical assistance to tribal and local governments, and other public and private entities to carry out the management plan.
(c) PUBLIC MEETINGS.—The management entity shall—
(1) give priority in implementing actions set forth in the management plan;
(2) coordinate with tribal and local governments to better enable them to adopt land use policies consistent with the goals of the management plan;
(3) encourage by appropriate means economic viability in the heritage area consistent with the goals of the management plan; and
(4) assist local and tribal governments and non-profit organizations in—
(A) establishing and maintaining interpretive exhibits in the heritage area;
(B) developing recreational resources in the heritage area;
(C) increasing public awareness of, and appreciation for, the cultural, historical, archaeological and natural resources and sites in the heritage area;
(D) the restoration of historic structures related to the heritage area; and
(E) the carrying out of other projects that the management entity determines appropriate to fulfill the purposes of this Act, consistent with the management plan.

(f) ANNUAL REPORTS AND AUDITS.—
(1) For any year in which the management entity receives Federal funds under this Act, the management entity shall submit an annual report to the Secretary setting forth accomplishments, expenses and income, and each entity to which any grant was made by the management entity.
(2) The management entity shall make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds. The management entity shall also require, for all agreements authorizing expenditure of Federal funds by other organizations, that the recipient organizations make available to the Secretary for audit all records concerning the expenditure of those funds.
SEC. 6. DUTIES OF THE SECRETARY.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary shall, upon request of the management entity, provide technical and financial assistance to develop and implement the management plan.

(b) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give priority to actions that facilitate

(1) the conservation of the significant natural, cultural, historical, archaeological, scenic, and recreational resources of the heritage area; and

(2) the provision of educational, interpretive, and recreational opportunities consistent with the resources and associated values of the heritage area.

SEC. 7. SAVINGS PROVISIONS.

(a) NO EFFECT ON PRIVATE PROPERTY.—Nothing in this Act shall be construed to

(1) modify, enlarge, or diminish any authority of Federal, State, or local governments to regulate any use of privately owned lands; or

(2) grant the management entity any authority to regulate the use of privately owned lands.

(b) TRIBAL LANDS.—Nothing in this Act shall authorize the Secretary to regulate tribal land use.

(c) AUTHORITY OF GOVERNMENTS.—Nothing in this Act shall

(1) modify, enlarge, or diminish any authority of Federal, State, tribal, or local governments to manage or regulate any use of land as provided for by law or regulation; or

(2) authorize the management entity to assume any management authorities over such lands.

(d) TRUST RESPONSIBILITIES.—Nothing in this Act shall diminish the Federal Government’s trust responsibilities or government-to-government obligations to any federally recognized Indian tribe.

SEC. 8. SUNSET.

The authority of the Secretary to provide assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity assisted under this Act shall be not more than 50 percent.

By Mr. INOUYE (for himself, Mr. STEVENS, and Mr. BURNS):

S. 65. A bill to amend the age restrictions for pilots; to the Committee on Commerce, Science, and Transportation.

Mr. INHOFE. Mr. President, I rise today, as an experienced pilot over age 60, along with my colleagues, Senator STEVENS and Senator BURNS, to introduce a bill that will help end age discrimination among airline pilots, I also want to thank my colleague in the other chamber, Congressman Jim GIBBONS, for his leadership on this issue and for introducing the companion version of this bill.

This bill will abolish the Federal Aviation Administration’s Age 60 Rule, the regulation that for more than 40 years has forced the retirement of airline pilots the day they turn 60 and replace it with a rational plan that ties

the commercial pilot retirement age to the Social Security retirement age currently 65.

Most nations have abolished mandatory age 60 retirement rules. The United States is one of only two countries in the Joint Aviation Authority (JAA) where pilots to retire at the age of 60. Some countries, including Canada, Australia, and New Zealand have no upper age limit at all.

The Age 60 Rule has no basis in science or safety and never did. FAA data shows that pilots over age 60 are as safe as, and in some cases safer than, their younger colleagues. There have been numerous studies and statements in support of abolishing the Age 60 Rule.

In 1981, the National Institute of Aging stated that “the Age 60 Rule appears indefensible on medical grounds” and “there is no convincing medical evidence to support age 60, or any other specific age, for mandatory pilot retirement.”

The FAA released the Hilton Study in 1993, which stated “the data for all groups of pilots were remarkably consistent in showing a modest decrease in accident rate with age no hint of an increase in accident rates as pilots near age 60.”

Furthermore, in May 1999, the Senate Appropriations Committee asked the FAA to report on why the US should not cautiously increase the age to 63, “like other countries have for commercial aviation.”

Airline Pilots magazine stated in a September 2003 article, “If a permanent replacement for the 30 year Treasury bond rate is also applied to the calculation of lump-sum payments, we recommend a long transition period, similar to that proposed in H.R. 1776, the pension legislation introduced by Rep. BOB PORTMAN. For pilots who must retire at age 60, this is particularly important. It would be unfair to pull the rug out from under employees who have carefully planned their retirement finances, especially pilots who can’t fly longer to make up for the amounts lost because of a change in the basis used to calculate lump-sum payments.”

As recently as September 14, 2004, in a hearing before the Senate Special Committee on Aging, Captain Joseph “Ike” Elchlkraut, President of South-west Airlines Pilots’ Association, testified:

“The 4000 plus pilots of the Southwest Airlines Pilots’ Association, oppose the Age 60 Rule.

‘Flying a commercial airliner is not physically demanding for someone who has been in the flying business their entire life. I encountered 15 years ago in the 7 9 “G” world of the F-16 I flew in the Air Force. Commercial piloting is, however, a job requiring key management skills and sound judgment. These are talents that I have found typically come with age and experience.”

“The facts are that plain. The FAA has the ideal mechanisms for ensuring safe pilots at any age are already in place. To retain my license and fly as a pilot for Southwest Airlines, I must pass semi-annual flight physical examinations by a qualified FAA licensed Aeromedical Examiner (AME). When a pilot turns 40 years of age, he undergoes an AME and other flight physical, which is electronically transmitted by the AME directly to FAA headquarters where a computer program alerts if parameters dictate.”

“Pilots must also successfully pass semi-annual simulator training and flight checks designed to evaluate the crewmember’s ability to respond to various aircraft emergencies and/or competently handle advances in flight technology and the Air Traffic Control (ATC) environment. Captains must demonstrate, twice yearly, complete knowledge of systems and procedures, safe piloting skills and multi-tasking by managing emergency and normal flight situations, typically in instrument flight conditions, in advanced simulators. There is no greater test of cognitive ability and mental dexterity than these simulator rides. Flight crews are also administered random inflight check rides by FAA inspectors and SouthWest check airmen. Furthermore, we are subject to random alcohol and drug testing at any time while on duty. There is no other profession examined to this level. The 59 year old Captain arrives at this point in his career having demonstrated successful performance for 30 years with this kind of scrutiny. FAA studies have verified the superior level of safety exhibited by this senior Captain.

“At Southwest, our pilots are trained to fly the aircraft on instruments down to 50’ above the ground in poor visibility conditions before acquiring the intended runway and landing visually. In simulators, both pilots must demonstrate the ability to immediately determine whether a safe landing can be made at this point or if the pilot must execute a “go-around” or land. The First Officer is trained to assume control of the aircraft and execute a “go-around” if the Captain fails to respond to procedures at this critical decision point. If either pilot should become incapacitated, even at touchdown, the other pilot is capable of assuming control in order to fly the airplane to a safe landing. The passengers would probably remain unaware that a pilot had become incapacitated.”

“Simulator failure rates among SWA pilots are low. Last year there were only 31 out of 4,200 simulator checkrides. But as pilots approach age 60 the failure numbers are at their lowest. The graph attached shows this and I believe that experience is the key. As pilots get older, they know how to better handle the extreme situations they may encounter in simulator checks. The mean failure rates at an even rate from a pilot’s thirties through his fifties. Of course, because of the Age 60 rule, I don’t have data to
show that this trend would continue throughout a pilot’s sixties, but I sus-
pect it would.”

I urge the Commerce Committee to hold hearings along these lines.

Furthermore, on September 29, 2004, thousands of people watched as 63-y-
old Michael Melvill made history by becoming the first civilian to pilot a
raft into space. In doing so, he helped Paul Allen, the owner of Mojave Aero-
space Ventures, which owns SpaceShipOne technology, along with the
SpaceShipOne, pilot Rutan, win the coveted $10 million Ansari X-Prize.

Melvill took SpaceShipOne above the
62-mile altitude point, ultimately soar-
ing to 397,590 feet. Despite rolling near-
ly 20 times, Melvill was able to gain
control of the vehicle, re-enter the at-
mosphere, and glide to a landing. I at-
tribute this recovery and subsequent
landing to Melvill’s years of extensive
experience as a test pilot.

The bill also allows our most experi-
ned pilots, those like Michael Melvill
demonstrably healthy, and fit for duty-
to retain their jobs, a step that will ben-
efit pilots, the financially burdened
airlines, and most importantly, pas-
sengers. More than ever before, we need to keep our best pilots flying.

Again, there is no scientific justifica-
tion for requiring pilots to retire at age
60. Our pilots, our airlines, and our pas-
sengers deserve our consideration. I
urge the rest of my colleagues to sup-
port this important legislation.

By Mr. INOUYE:

S. 66. A bill to amend title XIX of the
Social Security Act to provide for cov-
erage of services provided by nursing
school clinics under medicaid pro-
grams; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I
introduce the Nursing School Clinics Act.
This bill builds on our con-
cernted efforts to provide access to
quality health care for Americans by offer-
grants and incentives for nursing
schools to establish primary care clin-
ics in underserved areas where addi-
tional medical services are most need-
ed. In addition, this measure provides
the opportunity for nursing schools to
enhance the scope of student training
and education by providing firsthand
clinical experience in primary care fa-
cilities.

Primary care clinics administered by
nursing schools are university or non-
profit primary care centers developed
mainly in collaboration with univer-
sity schools of nursing and the commu-
nities they serve. These centers are
staffed by faculty and staff who are
nurse practitioners and public health
nurses. Students supplement patient
care while receiving preceptorships
provided by college of nursing faculty
and primary care physicians, often as-
associated with academic institutions,
who are collaborating with nurse
practitioners. To date, the compre-
ensive models of care provided by nurse
clinics have yielded excellent results,
including significantly fewer emer-
gency room visits, fewer hospital inpa-
tient days, and less use of specialists,
as compared to conventional primary
health care.

This bill reinforces the principle of
combining health care delivery in un-
derserved areas with the education of
advanced practice nurses. To accom-
plish these objectives, Title XIX of the
Social Security Act would be amended
to designate that the services provided
in these nursing school clinics are re-
imbursable under Medicaid. The com-
bination of grants and the provision of
Medicaid reimbursement furnishes the
financial incentives for clinic operators
to establish the clinics.

In order to meet the increasing chal-
lenge of bringing cost-effective and
quality health care to all Americans,
we must consider a wide range of pro-
posals, both large and small. Most im-
portantly, we must approach the issue
of health care with creativity and de-
termination. All avenues are pursued.
Nurses have always been an integral part of health
care delivery. The Nursing School Clinics Act recognizes the central role
nurses can perform as care givers to the same, lack of information,
and lack of knowledge about available resources.
Due to the diversity of rural

by Mr. INOUYE: JANUARY 24, 2005
NURSING SCHOOL CLINIC SERVICES
REPEALED BY NURSING SCHOOL CLINIC
OBS.
NURSING SCHOOL CLINIC SERVICES
DEFINITION.
SECTION 1905 of the Social Security
Act (42 U.S.C. 1396d) is amended by
adding at the end the following new
section:‘’The term ‘nursing school clinic
services’ means services provided by a
health care facility operated by an accredit-
ed school of nursing which provides primary
care, long-term care, mental health coun-
seling, home health counseling, home health
services, or other health care services which are
within the scope of practice of a registered
nurse.’’

(c) CONFIRMING AMENDMENT.—Se-
ction 1902(a)(10)(C)(iv) of the Social Security
Act (42 U.S.C. 1396aa(a)(10)(C)(iv)) is amended by
inserting ‘‘and (28)’’ after ‘‘(24)’’.

(d) EFFECTIVE DATE.—The amendments
made by this section shall be effective with
respect to payments made under a State plan
under title XIX of the Social Security Act
(42 U.S.C. 1396 et seq.) for calendar quarters
commencing with the first calendar quarter
beginning after the date of enactment of this
Act.

By Mr. INOUYE: S. 67. A bill to amend the Public
Health Act to provide health care prac-
titioners in rural areas with training in
preventive health care, including both
physical and mental care, and for other
purposes; to the Committee on Health,
Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, I rise
today to introduce the Rural Preven-
tive Health Care Training Act, a bill
that responds to the dire need of our
rural communities for quality health
9980

This Act may be cited as the “Nursing
School Clinics Act of 2005”.

SEC. 2. MEDICAID COVERAGE OF SERVICES
PROVIDED BY NURSING SCHOOL CLINICS.

(a) IN GENERAL.—Section 1905(a) of the So-
cial Security Act (42 U.S.C. 1396d(a)) is amended—
(1) in paragraph (27), by striking ‘‘and’’ at the end;
(2) by redesignating paragraph (28) as para-
graph (29); and
(3) by inserting after paragraph (27), the following
new paragraph:

‘‘(28) nursing school clinic services (as de-
defined in subsection (x)) furnished by or under
the supervision of a nurse practitioner or a
clinical nurse specialist (as defined in sec-
tion 1861(aa)(5)), whether or not the nurse
practitioner or clinical nurse specialist is
under the supervision of, or associated with,
a physician or other health care provider; and
’’

(b) NURSING SCHOOL CLINIC SERVICES
DEFINED.—Section 1905 of the Social Security
Act (42 U.S.C. 1396d) is amended by adding at the
end the following new subsection:

‘’(x) The term ‘nursing school clinic services’ means
services provided by a health care facility operated
by an accredited school of nursing which provides primary
care training opportunities. Interdisciplinary preventive training
of rural health care providers must be encouraged. Through such training,
rural health care providers can build a strong educational foundation from
the behavioral, biological, and psychological sciences. Interdisciplinary team
prevention training will also facilitate operations at sites with both health
and mental health clinics by facilitating routine consultation between
groups. Emphasizing the mental health disciplines and their services as part of
the health care team will contribute to the overall health of rural

The Rural Preventive Health Care Training Act would implement the
S246

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January 24, 2005

risk-reduction model described in the IOM study. This model is based on the identification of risk factors and targets specific interventions for those risk factors. The human suffering caused by such disorders is immeasurable and places a huge financial burden on communities, families, and individuals. By implementing preventive measures to reduce this suffering, the potential psychological and financial savings are enormous.

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

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

S. 67

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 “Rural Preventive Health Care Training Act of 2005”.

SEC. 2. PREVENTIVE HEALTH CARE TRAINING.

Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.), is amended by inserting after section 754 the following:

‘‘SEC. 754A. PREVENTIVE HEALTH CARE TRAINING.

‘‘(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, eligible applicants to enable such applicants to carry out training projects in accordance with subsection (c), to health care practitioners practicing in rural areas to increase their knowledge and skills to become more effective in providing comprehensive preventive health services to the entire community. Outpatient services offered to the entire family include comprehensive primary care, preventive health care, health education, and health promotion outreach in the local community. Community health centers, with their multidisciplinary approach, offer cost effective integration of health promotion and illness prevention services with chronic disease management and primary care focused on serving vulnerable populations.

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

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

S. 68

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 “Native Hawaiian Medicaid Care Act of 2005”.

SEC. 2. 100 PERCENT FMAP FOR MEDICAL ASSISTANCE PROVIDED TO NATIVE HAWAIIANS THROUGH A FEDERALLY-QUALIFIED HEALTH CENTER OR A NATIVE HAWAIIAN HEALTH CARE SYSTEM UNDER THE MEDICAID PROGRAM.

(a) MEDICAID.—Paragraph (a) of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by inserting ‘‘, and with respect to medical assistance provided to a Native Hawaiian (as defined in section 12 of the Native Hawaiian Health Care Improvement Act) through a federally-qualified health center or a Native Hawaiian health care system as so defined directly, by referral, or under contract or otherwise arrangements of a federally-qualified health center or a Native Hawaiian health care system and another health care provider prior to the period.’’;

(b) EFFECTIVE DATE.—The amendment made by this section applies to medical assistance provided on or after the date of enactment of this Act.

By Mr. INOUYE:

S. 69. A bill to amend title XVIII of the Social Security Act to remove the restriction that a clinical psychologist or a clinical social worker provide services in a comprehensive outpatient rehabilitation facility to a patient only under the care of a physician; to require recognition of the qualifications of clinical psychologists and clinical social workers by Medicare; and to amend title XIX of the Social Security Act to provide for medical assistance to Native Hawaiians.

In my judgment, it is unfortunate that Medicare requires clinical supervision of the services provided by certain health professionals and does not allow them to function to the fullest extent of their qualifications. Those who need the services of outpatient rehabilitation facilities should have access to a wide range of social and behavioral science expertise. Clinical psychologists and clinical social workers are recognized as independent providers of mental health care services under the Federal Employee Health Benefits Program, the TRICARE Military Health Program of the Uniformed Services, the Medicare (Part B) Program, and numerous private insurance plans. This legislation will ensure that these qualified professionals are recognized as independent providers under the Medicare comprehensive outpatient rehabilitation facility program.
Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 70

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 “Autonomy for Psychologists and Social Workers Act of 2005”.

SEC. 2. REMOVAL OF RESTRICTION THAT A CLINICAL PSYCHOLOGIST OR CLINICAL SOCIAL WORKER PROVIDE SERVICES IN A COMPREHENSIVE OUT-PATIENT REHABILITATION FACILITY TO A PATIENT ONLY UNDER THE CARE OF A PHYSICIAN.

(a) In General.—Section 1395x(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended by striking “physician” and inserting “psychician, except that a patient receiving qualified psychologist services (as defined in subsection (l)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law.”

(b) Effective Date.—The amendment made by subsection (a) shall apply to services provided on or after January 1, 2006.

By Mr. INOUYE.

S. 21

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 “Registered Nurse Safe Staffing Act of 2005”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) There are hospitals throughout the United States that have inadequate staffing of registered nurses necessary to protect the well-being and health of the patients.

(2) Studies show that the health of patients in hospitals is directly proportionate to the number of registered nurses working in the hospital.

(3) There is a critical shortage of registered nurses in the United States.

(4) The effect of that shortage is revealed in unsafe staffing levels in hospitals.

(5) Patient safety is adversely affected by these unsafe staffing levels, creating a public health crisis.

(6) Registered nurses are being required to perform professional services under conditions that do not support quality health care and a healthful work environment for registered nurses.

(7) As a payer for inpatient and outpatient hospital services for individuals entitled to benefits under the Medicare program established under title XVIII of the Social Security Act, the Federal Government has a compelling interest in promoting the safety of such individuals by requiring any hospital participating in such program to establish minimum safe staffing levels for registered nurses.

SEC. 3. ESTABLISHMENT OF MINIMUM STAFFING RATIOS BY MEDICARE PARTICIPATING HOSPITALS.

(a) Requirement of Medicare Provider Agreement.—Section 1395cc(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) in subparagraph (R), by striking “and” after the comma at the end;

(2) in subparagraph (S), by striking the period at the end and inserting “and”; and

(3) by inserting after subparagraph (S) the following new subparagraph:

“(T) in the case of a hospital, to meet the requirements of section 1889.”

(b) Elimination of D of title XVIII of the Social Security Act is amended by inserting after section 1888 the following new section:

“STAFFING REQUIREMENTS FOR MEDICARE PARTICIPATING HOSPITALS

SEC. 1889. (a) Establishment of staffing system.

“(1) In General.—Each participating hospital shall adopt and implement a staffing system that ensures a number of registered nurses on each shift and in each unit of the hospital to ensure appropriate staffing levels for patient care.

“(2) Staffing system requirements.—Subject to paragraph (3), a staffing system adopted and implemented under this section shall—

“(A) be based upon input from the direct caregivers, registered nurse staff or their exclusive representatives, as well as the chief nurse executive;

“(B) be based upon the number of patients and level and variety of intensity of care to be provided, with appropriate consideration given to admissions, discharges, and transfers during each shift;

“(C) account for contextual issues affecting staffing and the delivery of care, including architecture and geography of the environment and available technology;

“(D) reflect the level of preparation and experience of those providing care;

“(E) account for staffing level effectiveness or deficiencies in related health care classification, including but not limited to, certified nurse assistants, licensed vocational nurses, licensed psychiatric technicians, nursing assistants, aides, and orderlies;

“(F) reflect staffing levels recommended by specialty nursing organizations;

“(G) establish upwardly adjustable registered nurse-to-patient ratios based upon registered nurses’ assessment of patient acuity and existing conditions;

“(H) provide that a registered nurse shall not be assigned to work in a particular unit without first having demonstrated the ability to provide professional care in such unit; and

“(I) be based on methods that assure validity and reliability.

“(2) Implementation.—A staffing system adopted and implemented under paragraph (1) may not—

“(A) set registered-nurse levels below those required by any Federal or State law or regulation; or

“(B) utilize any minimum registered nurse-to-patient-ratio established pursuant to paragraph (2)(A) as a limit on the staffing of the hospital to which such ratio applies.

“(3) Reporting, and Release to Public, of Certain Staffing Information.—

“(1) Requirements for hospitals.—Each participating hospital shall—

“(A) post daily for each shift, in a clearly visible place, a document that specifies in a uniform manner (as prescribed by the Secretary) the current number of licensed and unlicensed nursing staff directly responsible for patient care in each unit of the hospital, identifying specifically the number of registered nurses;

“(B) upon request, make available to the public—

“(i) the nursing staff information described in subparagraph (A); and

“(ii) the number of registered nurses in each unit of the hospital, and the number of those nurses who are not registered nurses; and

“(2) Use of information.—The Secretary shall—

“(A) use the information compiled under paragraph (3) to evaluate and report on the level of compliance of hospitals with section 1889 and the results of such evaluation and report shall be included in the annual report on the quality of hospital care required under section 1886 of this title;

“(B) make available to the public the information compiled under paragraph (3); and

“(C) provide for the enforcement and implementation of the requirements of paragraph (1); and

“(D) publish the information described in paragraph (3) on the Internet at a website maintained by the Secretary in a readily accessible manner.

“(4) Use of data.—The Secretary shall—

“(A) use the data collected under section 1889 to conduct and report upon studies to analyze and evaluate the effects of the requirements of this section and the high-risk indicators identified under section 1889(b) and the results of such studies and reports shall be included in the annual report on the quality of hospital care required under section 1886 of this title.

“(B) include such data in any reports to Congress on the effects of the requirements of this section.”
“(ii) a detailed written description of the staffing system established by the hospital pursuant to subsection (a); and
“(C) submit to the Secretary in a uniform manner, by the Secretary of the Treasury, the nursing staff information described in subparagraph (A) through electronic data submission not less frequently than quarterly.

(2) DATA COLLECTION ON CERTAIN OUTCOMES.—(A) a participating hospital shall record, maintain, and submit to the Secretary, data on outcomes of determining whether an institution is a hospital for purposes of this title.

(c) RECORDKEEPING; DATA COLLECTION; EVALUATION.—

(1) RECORDKEEPING.—Each participating hospital shall maintain for a period of at least 3 years (or, if longer, until the conclusion of pending enforcement activities) such records as the Secretary deems necessary to determine whether the hospital has adopted and implemented a staffing system pursuant to subsection (a).

(2) DATA COLLECTION ON CERTAIN OUTCOMES.—(A) such a participating hospital shall submit data on the collection, maintenance, and submission of data by each participating hospital sufficient to establish the link between the staffing system established pursuant to subsection (a) and—

(A) patient acuity from maintenance of acuity data through entries on patients' charts;

(B) patient outcomes that are nursing sensitive, such as patient falls, adverse drug events, injuries to patients, skin breakdown, pulmonary infection rates, upper gastrointestinal bleeding, shock, cardiac arrest, length of stay, and patient readmissions;

(C) operational outcomes, such as work-related injury or illness, vacancy and turnover rates, nursing care hours per patient day, on-call use, overtime rates, and needlestick injuries; and

(D) patient complaints related to staffing levels.

(3) EVALUATION.—Each participating hospital shall annually evaluate its staffing system and the information collected, maintain, and submit to the Secretary, staffing ratios to assure ongoing reliability and validity of the system and ratios. The evaluation shall be conducted by a joint management-staff committee comprised of at least 50 percent of registered nurses who provide direct patient care.

(d) ENFORCEMENT.

(1) RESPONSIBILITY.—The Secretary shall enforce the provisions of this section in accordance with the procedures provided in this subsection.

(2) PROCEDURES FOR RECEIVING AND INVESTIGATING COMPLAINTS.—(A) a complaint that a participating hospital has violated a requirement of this section; and

(B) such complaints are investigated by the Secretary.

(3) REMEDIES.—If the Secretary determines that a participating hospital has violated a requirement of this section, the Secretary—

(A) shall require the facility to establish a corrective action plan to prevent the recurrence of such violation; and

(B) may impose civil money penalties under paragraph (4).

(4) CIVIL MONEY PENALTIES.—(A) In addition to any other penalties prescribed by law, the Secretary may impose a civil money penalty of not more than $10,000 for each knowing violation of a requirement of this section, except that the Secretary shall impose a civil money penalty of more than $10,000 for each such violation in the case of a participating hospital that the Secretary determines has a pattern or practice of such violations (with the amount of such additional penalties being equal, or related to, a schedule or methodology specified in regulations).

(B) PROCEDURES.—The provisions of section 13115(b) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A.

(C) PUBLIC NOTICE OF VIOLATIONS.—

(i) INTERNET SITE.—The Secretary shall publish on the Internet site of the Department of Health and Human Services the names of participating hospitals on which civil money penalties have been imposed under this section, the violation for which the penalty was imposed, and such additional information as the Secretary determines appropriate.

(ii) CHANGE OF OWNERSHIP.—With respect to a participating hospital that had a change in ownership, as determined by the Secretary, penalties imposed on the hospital while under previous ownership shall no longer be published on the Internet site after the 1-year period beginning on the date of change in ownership.

(D) WHISTLEBLOWER PROTECTIONS.

(1) PROHIBITION OF DISCRIMINATION AND RETALIATION.—A participating hospital shall not discriminate or retaliate against any patient or employee of the hospital because that patient or employee, or any other person, has reported a grievance or complaint, or has initiated or cooperated in any investigation or proceeding of any kind, relating to the staffing system or other requirements and prohibitions of this section.

(2) RELIEF FOR PREVAILING EMPLOYEES.— (A) an employee of a participating hospital who has been discriminated or retaliated against in employment in violation of this subsection may initiate judicial action in a United States district court.

(a) such provisions apply to a penalty or proceeding under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A.

(b) REGULATIONS. —The Secretary shall promulgate such regulations as are appropriate and necessary to implement this section.

(c) DEFINITIONS.—In this section:

(1) PARTICIPATING HOSPITAL.—The term ‘participating hospital’ means a hospital that has entered into a provider agreement under section 1866.

(2) REGISTERED NURSE.—The term ‘registered nurse’ means an individual who has been granted a license to practice as a registered nurse in at least 1 State.

(3) ENFORCEMENT.—The term ‘enforce’ means an organizational department or separate geographic area of a hospital, such as a burn unit, a labor and delivery room, a post-anaesthesia care unit, and a critical care unit.

(4) SHIFT.—The term ‘shift’ means a scheduled set of hours or duty period to be worked at a participating hospital.

(5) PERSON.—The term ‘person’ means 1 or more individuals, associations, corporations, unincorporated organizations, or labor unions.

(6) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2006.

By Mr. INOUYE.

S. 72. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detained or interned by an enemy government in uniform under wartime conditions: to the Committee on Homeland Security and Governmental Affairs

Mr. INOUYE. Mr. President, all too often we find that our Nation’s civilian employees of the Federal Government who have been forcibly detained or interned by a hostile government do not receive the recognition they deserve. My bill would correct this inequity and provide a prisoner of war medal for such citizens.

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

There being no objection, the bill was ordered to be printed in the RECORD, as follows:
S. 73

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

SECTION 1. PRISONER-OF-WAR MEDAL FOR CI-VILIAN EMPLOYEES OF THE FED-ERAL GOVERNMENT.

(a) AUTHORITY TO ISSUE PRISONER-OF-WAR MEDAL.—Section 2501 of title 5, United States Code, is amended by inserting after chapter 23 the following new chapter:

"CHAPTER 25—MISCELLANEOUS AWARDS


§ 2501. Prisoner-of-war medal: issue

"(a) The President shall issue a prisoner-of-war medal to any person who, while serving in any capacity as an officer or employee of the Federal Government, was forcibly detained or interned, not as a result of such person's own willful misconduct—

'(1) by an enemy government or its agents, or a hostile force, during a period of war; or

'(2) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the President finds to have been comparable to the circumstances under which members of the armed forces have generally been forcibly detained or interned by enemy governments during periods of war.

"(b) The prisoner-of-war medal shall be of appropriate design, with ribbons and appurtenances.

"(c) Not more than one prisoner-of-war medal may be issued to a person under this section or section 1128 of title 10. However, for each succeeding service that would otherwise justify the issuance of such a medal, the President (in the case of service referred to in subsection (a) of this section) or the Secretary concerned (in the case of service referred to in section 1128(a) of title 10) may issue a suitable device to be worn as determined by the President or the Secretary, as the case may be.

"(d) For a person to be eligible for issuance of a prisoner-of-war medal, the person's conduct must have been honorable for the period of captivity which serves as the basis for the issuance.

"(e) If a person dies before the issuance of a prisoner-of-war medal to which the person is entitled, the medal may be issued to that person's representative, as designated by the President.

"(f) Under regulations prescribed by the President, a prisoner-of-war medal that is lost, destroyed, or rendered unfit for use without the fault or neglect on the part of the person to whom it was issued may be replaced without charge.

'(g) In this section, the term 'period of war' has the meaning given such term in section 101(11) of title 38.'.

(2) The table of chapters at the beginning of part III of such title is amended by inserting after chapter 23 the following new item:


(b) APPLICABILITY.—Section 2501 of title 5, United States Code, as added by subsection (a), applies with respect to any person who, after April 5, 1917, is forcibly detained or interned as described in subsection (a) of such section.

By Ms. CANTWELL:

S. 73. A bill to promote food safety and to protect the animal feed supply from bovine spongiform encephalopahy, and for other purposes.

By Mr. CANTWELL. Mr. President, today I am introducing the Animal Feed Protection Act of 2005. It is similar to legislation that I introduced in the 108th Congress.

Last week, during the Senate's consideration of the nomination of Governor Mike Johanns to be the Secretary of Agriculture, I spoke in favor of exercising caution with respect to re-opening the U.S.-Canadian border to imports of live animals and processed beef products until the Animal Protective Health Inspection Service fully investigates the most recent case of Mad Cow in that country. This legislation is important to our ongoing efforts to eradicate the possibility that Mad Cow disease will infect U.S. cattle herds.

My legislation provides necessary enhancements to current Federal feed regulations. It reduces the chance that the riskiest materials, those most likely to transmit Mad Cow disease, cross-contaminate cattle feed or are accidentally fed to cattle.

Specifically, the legislation would ban the inclusion of specified risk materials, or SRM, in all animal feed. Currently these materials are only banned from ruminant feed.

As we continue to negotiate the re-opening of the border to U.S. beef, a comprehensive SRM ban is a prudent step. It is necessary to assure our trading partners that we have secured our domestic feed, and eliminated the risk of spreading Mad Cow disease through feed.

As our domestic beef producers continue to suffer from the closure of our largest export markets, I encourage my colleagues to join me in cosponsoring this legislation—a measure that will strengthen our Mad Cow firewalls and our assurances to foreign beef consumers. I also hope that as the Senate Agriculture Committee conducts hearings next month into the appropriate Federal response to the most recent Canadian Mad Cow case, the committee will consider examining this legislation as well. The Senate should move toward its swift passage. Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

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 “Animal Feed Protection Act of 2005”.

SEC. 2. DEFINITIONS.

In this Act:

(A) IN GENERAL.—The term “covered article” means—

(1) an unprocessed agricultural commodity that is readily identifiable as nonanimal in origin, such as a vegetable, grain, or nut;

(ii) an article described in subparagraph (B) that, based on compelling scientific evidence, the Secretary determines does not pose a risk of transmitting prion disease; or

(iii) an article regulated by the Secretary that is determined by the Secretary to—

(I) poses a minimal risk of carrying prion disease; and

(ii) is necessary to protect animal health or public health.

(B) SPECIFIED RISK MATERIAL.—A person to whom it was issued may be re-issued a prisoner-of-war medal that is lost, destroyed, or rendered unfit for use by the President.

(a) PRISONER-OF-WAR MEDAL.

(i) any other article of a kind that is ordinarily ingested, implanted, or otherwise taken into the body; and

(ii) any other article of a kind that—

(A) to cease the violation;

(B) any material from a ruminant that—

(i) in the intestinal tract of a ruminant of any age; and

(ii) in the intestinal tract of a ruminant of any age; and

(iii) any other material of a kind that is ordi-

(iv) is used as medicine for an animal; and

(v) is used as medicine for an animal; and

(vi) may be used for an animal; and

(vii) may be used for an animal; and

(viii) may be used for an animal; and

(ix) may be used for an animal; and

(x) may be used for an animal; and

(xi) may be used for an animal; and

(xii) may be used for an animal; and

(xiii) may be used for an animal; and

(xiv) may be used for an animal; and

(xv) may be used for an animal; and

(xvi) may be used for an animal; and

(xvii) may be used for an animal; and

(xviii) may be used for an animal; and

(xix) may be used for an animal; and

(xx) may be used for an animal; and

(xx) may be used for an animal; and

(2) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the President finds to have been comparable to the circumstances under which members of the armed forces have generally been forcibly detained or interned by enemy governments during periods of war.

(b) The prisoner-of-war medal shall be of appropriate design, with ribbons and appurtenances.

(c) Not more than one prisoner-of-war medal may be issued to a person under this section or section 1128 of title 10. However, for each succeeding service that would otherwise justify the issuance of such a medal, the President (in the case of service referred to in subsection (a) of this section) or the Secretary concerned (in the case of service referred to in section 1128(a) of title 10) may issue a suitable device to be worn as determined by the President or the Secretary, as the case may be.

(d) For a person to be eligible for issuance of a prisoner-of-war medal, the person's conduct must have been honorable for the period of captivity which serves as the basis for the issuance.

(e) If a person dies before the issuance of a prisoner-of-war medal to which the person is entitled, the medal may be issued to that person's representative, as designated by the President.

(f) Under regulations prescribed by the President, a prisoner-of-war medal that is lost, destroyed, or rendered unfit for use without the fault or neglect on the part of the person to whom it was issued may be replaced without charge.

(g) In this section, the term 'period of war' has the meaning given such term in section 101(11) of title 38.

(2) The table of chapters at the beginning of part III of such title is amended by inserting after chapter 23 the following new item:


(b) APPLICABILITY.—Section 2501 of title 5, United States Code, as added by subsection (a), applies with respect to any person who, after April 5, 1917, is forcibly detained or interned as described in subsection (a) of such section.

By Ms. CANTWELL:

S. 73. A bill to promote food safety and to protect the animal feed supply from bovine spongiform encephalopahy, and for other purposes.

By Mr. CANTWELL. Mr. President, today I am introducing the Animal Feed Protection Act of 2005. It is similar to legislation that I introduced in the 108th Congress.

Last week, during the Senate's consideration of the nomination of Governor Mike Johanns to be the Secretary of Agriculture, I spoke in favor of exercising caution with respect to re-opening the U.S.-Canadian border to imports of live animals and processed beef products until the Animal Protective Health Inspection Service fully investigates the most recent case of Mad Cow in that country. This legislation is important to our ongoing efforts to eradicate the possibility that Mad Cow disease will infect U.S. cattle herds.

My legislation provides necessary enhancements to current Federal feed regulations. It reduces the chance that the riskiest materials, those most likely to transmit Mad Cow disease, cross-contaminate cattle feed or are accidentally fed to cattle.

Specifically, the legislation would ban the inclusion of specified risk materials, or SRM, in all animal feed. Currently these materials are only banned from ruminant feed.

As we continue to negotiate the re-opening of the border to U.S. beef, a comprehensive SRM ban is a prudent step. It is necessary to assure our trading partners that we have secured our domestic feed, and eliminated the risk of spreading Mad Cow disease through feed.

As our domestic beef producers continue to suffer from the closure of our largest export markets, I encourage my colleagues to join me in cosponsoring this legislation—a measure that will strengthen our Mad Cow firewalls and our assurances to foreign beef consumers. I also hope that as the Senate Agriculture Committee conducts hearings next month into the appropriate Federal response to the most recent Canadian Mad Cow case, the committee will consider examining this legislation as well. The Senate should move toward its swift passage. Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

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 “Animal Feed Protection Act of 2005”.

SEC. 2. DEFINITIONS.

In this Act:

(A) The term “BSE” means bovine spongiform encephalopathy.

(B) COVERED ARTICLES.

(A) IN GENERAL.—The term “covered article” means—

(i) feed for an animal;

(ii) a nutritive supplement for an animal;

(iii) medicine for an animal; and

(iv) any other article of a kind that is ordi-
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(d) CIVIL AND MONETARY PENALTIES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations establishing the appropriate level of civil and monetary penalties necessary to carry out this Act.

SEC. 5. TRAINING STANDARDS.

The Secretary, in consultation with the Secretary of the Interior, shall issue guidelines to industry for the removal of specified risk materials.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $5,000,000 to carry out this Act.

SEC. 7. EFFECTIVE DATE.

This Act takes effect on the date that is 180 days after the date of enactment of this Act.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 74. A bill to designate a portion of the White Salmon River as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, today I am introducing the White Salmon Wild and Scenic Rivers Act. I am pleased to be joined by the Senior Senator from Washington (Mrs. MURRAY), who has been a strong supporter of this legislation.

The White Salmon would designate some 20 miles of the main stem of the upper White Salmon River and one of its tributaries, Cascade Creek, all within the Gifford Pinchot National Forest, as components of the National Wild and Scenic Rivers System. By designating this upper third of the White Salmon, we can permanently protect this special river as a premiere recreational destination, a Southwest Washington economic resource, and an important wildlife habitat.

I am happy to note that my delegation colleague, Congressman BAIRD, recently offered identical legislation in the House.

The White Salmon River’s remarkable wild and pristine condition are not in question. In fact, the lower eight miles of the river received protection when Congress granted that stretch of the river Wild and Scenic status in 1986. As we saw then, its protected status hasn’t prevented residents and visitors from taking advantage of the unique recreational opportunities the White Salmon River offers. Extending Wild and Scenic protection to the river’s upper reaches today is an important step forward in protecting even more of its wild character for fishing, boating, and other recreational activities.

As one of the best whitewater rivers in the Pacific Northwest, the White Salmon already supports a number of whitewater rafting companies. About 12,000 whitewater boaters visit the river each year. So I see this designation as not just protecting a pristine river, but also its beneficial impact on the local economy downstream.

Preserving the White Salmon River will help increase opportunities for other outdoor sports, as well. This is an important sector of our state’s economy. According to the Washington Department of Fish and Wildlife, fish and wildlife related recreation pumps nearly $2.2 billion per year into our economy. And we rank first in the Northwest and eighth in the nation in spending by sport fishers.

Safeguarding the White Salmon through this designation will also be an important step toward restoring wildlife habitat. Once the Condit Dam is removed from the lower reach of the river, the White Salmon will again become a valuable spawning habitat for salmon and steelhead.

I am proud that identical legislation to the measure I introduce today passed the Senate unanimously on October 10, 2004. While the bill narrowly missed clearing the House of Representatives, I am confident that because this bill has a broad range of support, and is a true win-win prospect for local interests, that it will become law during the 110th Congress.

Mr. President, I look forward to working with my colleagues in the Senate, as well as other members of the Washington state congressional delegation, in ensuring swift passage of this important legislation. I ask unanimous consent that a copy of the legislation be printed in the RECORD at the conclusion of my remarks.

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

S. 74

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 “Upper White Salmon Wild and Scenic Rivers Act”.

SEC. 2. UPPER WHITE SALMON WILD AND SCENIC RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

(1) WHITE SALMON RIVER, WASHINGTON.—

The 20 miles of river segments of the main stem of the White Salmon River and Cascade Creek, Washington, and the Headwaters of the White Salmon River from the headwaters on Mount Adams in section 17, township 8 north, range 10 east, downstream to the Mount Adams wilderness boundary as a wild river.

(2) (A) The approximately 1.6-mile segment of the main stem of the White Salmon River from the headwaters on Mount Adams in section 10, township 8 north, range 10 east, downstream to the Headwaters of the White Salmon River as a scenic river.

(B) The approximately 5.1-mile segment of Cascade Creek from its headwaters on Mount Adams in section 10, township 8 north, range 10 east, downstream to the Mount Adams wilderness boundary as a wild river.

(C) The approximately 1.5-mile segment of Cascade Creek from the Mount Adams Wilderness boundary downstream to its confluence with the White Salmon River as a scenic river.

(D) The approximately 11.8-mile segment of the main stem of the White Salmon River from the Mount Adams Wilderness boundary downstream to the Gifford Pinchot National Forest boundary as a scenic river.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Ms. CANTWELL:

S. 75. A bill to permanently increase the maximum annual contribution allowed to be made to Coverdell education savings accounts; to the Committee on Finance.

Ms. CANTWELL. Mr. President, today I am introducing two pieces of legislation that will expand Coverdell Education Savings Accounts or ESAs: The Education Savings for Students Act and College Savings Act.

Coverdell ESAs are trusts created solely for the educational benefit of any child under the age of 18. Contributions to a Coverdell Education Savings account can be used toward a child’s education tuition from kindergarten through 12th grade, college, and even graduate school. All earnings in the account grow tax-free and can be withdrawn on a tax-deferred basis, if used for educational expenses. Currently, annual contributions to a Coverdell ESA cannot exceed $2,000. But this particular provision will sunset on 12/31/2010 unless Congress takes action to extend it, otherwise the maximum contribution will drop back to a previously set stipulation of $500.

My bill, the Education for Students Act would expand the existing Coverdell ESA by permanently increasing the maximum annual contribution from $2,000 to $5,000. This bill keeps the current Coverdell ESA provision that investment earnings accumulate tax-free and withdrawals from the account are tax-exempt when the child uses the funds for school.

My other bill, the College Savings Act would also permanently increase the maximum annual contribution to a Coverdell ESA to $5,000. Instead of anticipating future earnings, families would be able to deduct the amount they contribute to their education savings account from income.

Rather than putting away money ad-hoc, both bills provide a financial incentive to save for college or other educational expenses. And since there is no limit on the number of Coverdell ESAs that may be opened for each child, under age 18, parents have the flexibility to set aside money now through deductible contributions or bank on projected savings through tax-deferred earnings and withdrawals, or even take on both options. The College Savings and Education Savings for Students Acts will help families plan for future educational expenses, paving a path to financial self-sufficiency.

I understand that all families are different. Saving for college may be the last thing on a parent’s mind, especially when their child is young and their family has significant financial needs. But just as fast as our children
grow, so does the cost of tuition. Mounting prices for books and materials, plus room and board have made colleges and universities less affordable for most families.

College is expensive. There are many parents whose children aim to go to college, but soon discover they can’t afford it because the price of pursuing a higher education costs too much. If the College Savings and Education for Students Acts became law, families would have another powerful tool to help their children realize their educational dreams.

By saving money early and often, families won’t feel as hard hit by skyrocketing college prices because you’ll know what’s coming in and what’s going out of these accounts.

In 2002, the National Center for Public Policy and Higher Education reported on the national trends of rising college prices. The Center determined that if educational costs are unaddressed and unchecked, it will be an adverse consequence for expanding students’ opportunities to pursue a higher education and future career.

This report found that over the last two decades, the cost of attending two- and four-year public and private colleges have not only grown more rapidly than inflation, but faster than family incomes, increasing the share of family income that is needed to pay for tuition and other college expenses. From 1981 through 2001, tuition at four-year public colleges and universities rose faster than family income in 41 states, including my home state of Washington.

The Washington State Higher Education Coordinating Board reports that, over the last ten years, tuition and fees have far outpaced family income, increasing 89 percent compared to 51 percent in per capita personal income in my state. In comparison, the cost of a gallon of regular fuel has increased an average of 20 percent during the same time. Per capita personal income in Washington increased 51 percent during this same period.

As a result, more students and families at all income levels are borrowing more money than ever before to pay for college. According to a recent study by the College Board, nonfederal borrowing reached $11.3 billion in 2003-04, up 39 percent over the previous year, and 65 percent over the five-year period. Over $10 billion of these loans are private. Over the past five years, borrowing through banks and other private lenders has increased from 7 percent to 16 percent of education loan volume.

Although borrowing is an acceptable way to pay for college, the financial consequences of high debt can still ensue, and students spend years paying back loans, underlining their ability to pursue a home or save for retirement. Additionally, college students are an average graduate with about $3,300 in credit card debt alone. Concern about the increase in educational loan debt may cause students to spend more time working than attending class or to opt out of enrolling in college altogether.

Moreover, the steepest increases in college and university tuition have been imposed during times of greatest economic hardship. In the past three years, our economy has experienced a loss of 1.8 million private sector jobs and 2.7 million manufacturing jobs. Preparing America’s workforce and keeping up with the demand for skilled workers across all sectors of the 21st century job market is a priority. If we want to maintain our economic competitiveness, it is imperative that there are opportunities for individuals to fully take advantage of educational opportunities.

The Bureau of Labor Statistics reports that six of the ten fastest-growing occupations in the U.S. economy require an associate’s degree or bachelor’s degree, and that all ten of these careers will require some type of skills training. If we are to meet the pressures off of parents who are pushing children early and often will help lift opportunities to go to college. Saving for college early and often will help lift the financial burden that parents bear by saving money early and often.

Permanently expanding the Coverdell maximum contribution from its current threshold of $2,000 to $5,000 a year and allowing this contribution to be tax deductible is a common-sense savings vehicle that keeps future college costs from spinning out of control. Increasing contribution caps will make school more affordable at a time when a college education and advanced job training is becoming more and more important for economic success.

I urge my colleagues to support these measures and I ask unanimous consent that the full text of these bills be printed in the RECORD.

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

S. 75
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 “The Education Savings for Students Act of 2005”.

SEC. 2. INCREASE IN MAXIMUM ANNUAL CONTRIBUTIONS FOR COVERDELL EDUCATION SAVINGS ACCOUNTS.
(a) IN GENERAL.—Section 530(b)(1)(A)(iii) of the Internal Revenue Code of 1986 (defining Coverdell education savings account) is amended by striking “$2,000” and inserting “$5,000”.

(b) CONFORMING AMENDMENT.—Section 4973(e)(1)(A) of the Internal Revenue Code of 1986 is amended by striking “$2,000” and inserting “$5,000”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

S. 76
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 “The College Savings Act of 2005”.

...
SEC. 2. INCREASE IN MAXIMUM ANNUAL CONTRIBU-
TION FOR COVERED EDUCU-
ATION SAVINGS ACCOUNTS.

(a) In General. Section 530(b)(1)(A)(ii) of the Internal Revenue Code of 1986 (defining Covered education savings account) is amended by striking "$2,000" and inserting "$5,000").

(b) CONFORMING AMENDMENT. —Section 479(e)(1)(A) of the Internal Revenue Code of 1986 is amended by striking "$2,000" and inserting "$5,000".

(c) EFFECTIVE DATE. —The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 3. EDUCATION SAVINGS ACCOUNTS.

(a) Contributions. —Part VII of chapter B of chapter I of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 224 as section 225 and inserting after section 225 the following new section:

"SEC. 224. EDUCATION SAVINGS.

"(a) Deduction Allowed. —In the case of an individual, there shall be allowed as a deduction an amount equal to the amount of contributions made by such individual to an education savings account during the taxable year.

"(b) Definitions. —

"(1) EDUCATION SAVINGS ACCOUNT. —The term "education savings account" means a trust created or organized in the United States exclusively for the purpose of paying the qualified education expenses of an individual who is the designated beneficiary of the trust (and designated as an education savings account at the time created or organized), but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted—

"(i) unless it is in cash,

"(ii) unless the trust is subject to the requirements of this section or who has demonstrated with respect to any individual retirement plan or any Coverdell education savings account which is in existence on the date of such change.

"(B) Any change in the beneficiary of an education savings account shall be treated as a distribution for purposes of this section. In such case the amount of the distribution shall be treated as not exceeding the costs of advanced education as defined by section 2005(3) of title 10, United States Code, as in effect on the date of the enactment of this section.

"(C) CONTRIBUTIONS RETURNED BEFORE CERTAIN DATE. —Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—

"(i) such distribution is made before the first day of the sixth month of the taxable year following the taxable year, and

"(ii) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in clause (ii) shall be included in gross income for the taxable year in which such excess contribution was made.

(b) Rollover Contributions. —Paragraph (a) shall not apply to any amount paid or distributed from an education savings account to the extent that the amount received is paid, not later than the 60th day after the date of such payment or distribution, into another education savings account for the benefit of the same beneficiary or a member of the family (within the meaning of section 25A(g)(2) of such Code) who has attained age 30 as of such date. The preceeding sentence shall not apply to any payment or distribution. If it applies to any prior payment or distribution during the 12-month period ending on the date of the payment or distribution.

(c) INCREASE IN BENEFICIARY. —Any change in the beneficiary of an education savings account shall not be treated as a distribution for purposes of paragraph (a) if the new beneficiary is a member of the family (within the meaning of section 25A(g)(2) of such Code) who has not attained age 30 as of the date of such change.

(d) SPECIAL RULES FOR DEATH AND DIVORCCE. —Rules similar to the rules of paragraphs (2), (4), and (5) of section 52(c) shall apply for purposes of this section.

(e) TAX ON EXCESS CONTRIBUTIONS. —

(1) IN GENERAL. —The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from an education savings account which is in excess of the qualified education expenses of the designated beneficiary during the taxable year shall be increased by 10 percent of the amount of such excess.

(2) EXCEPTIONS. —Subparagraph (A) shall not apply if the payment or distribution is—

(i) made to a beneficiary (or to the estate of the designated beneficiary) or after the death of the designated beneficiary,

(ii) attributable to the designated bene-

ficiary’s being disabled (within the meaning of section 13682(f)(7)),

(iii) made on account of a scholarship, al-

lowance, or payment described in section 25A(g)(2) received by the account holder to the extent the amount of the payment or dis-

tribution does not exceed the amount of the scholarship, allowance, or payment, or

(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, the Coast Guard, the Merchant Marine Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education as defined by section 2005(3) of title 10, United States Code, as in effect on the date of the enactment of this section.

(f) EXCESS CONTRIBUTIONS TO EDUCATION SAVINGS ACCOUNTS. —For purposes of this section:

"(1) IN GENERAL. —In the case of education savings accounts maintained for the benefit of any one beneficiary, the term ‘excess contribu-

tions’ means the amount of—

"(A) the amount by which the amount con-

tributed for the taxable year to such ac-

count exceeds $5,000 (or, if less, the sum of the amounts described in subparagraphs (A) and (B) of section 52(c) of such Code), but only if the written governing in-

strument created or organized in the United States exclusively for the payment of the qualified education expenses of an individual who is the designated beneficiary of the trust (and designated as an education savings account at the time created or organized) does not meet the requirements of clause (i) of subparagraph (A) of section 52(c) of such Code, and

"(B) the amount of any excess contributions made by such individual to an education savings account;

"(2) RULES FOR ALLOCATING CONTRIBUTIONS. —

"(A) IN GENERAL. —The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from an education savings account which is in excess of the qualified education expenses of the designated beneficiary during the taxable year shall be increased by 10 percent of the amount of such excess.

"(B) EXCEPTIONS. —Subparagraph (A) shall not apply if the payment or distribution is—

(i) made to a beneficiary (or to the estate of the designated beneficiary) or after the death of the designated beneficiary,

(ii) attributable to the designated bene-

ficiary’s being disabled (within the meaning of section 13682(f)(7)),

(iii) made on account of a scholarship, al-

lowance, or payment described in section 25A(g)(2) received by the account holder to the extent the amount of the payment or dis-

tribution does not exceed the amount of the scholarship, allowance, or payment, or

(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, the Coast Guard, the Merchant Marine Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does
Section 224(e)(3)(C) applies. Paragraph (2) of section 669(a) of the Internal Revenue Code of 1986 (relating to failure to provide reports on individual retirement accounts or annuities) is amended by striking “and” at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting in its place “or” and by striking the following new subparagraph:

“(F) section 224(b)(3)(E) (relating to education savings accounts).”

(d) Clerical Amendment.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 224 and inserting the following new items:

“Sec. 224. Education savings.
Sec. 225. Cross reference.”

(e) Effective Date.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2004.

By Mr. SESSIONS (for himself and Mr. LIEBERMAN):

S. 77. A bill to amend titles 10 and 38, United States Code, to improve death benefits for the families of deceased members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

Mr. SESSIONS. Mr. President, I want to take a few minutes to discuss legislation that I am working on today along with Senator LIEBERMAN and I believe 15 other cosponsors called the HEROES Act of 2005, the Honoring Every Requirement of Exemplary Service Act, that will increase substantially the death benefits provided to the families of our service personnel who lose their lives in service to their country. I see Senator ALLEN. I know he deeply cares about this issue. We are working together on this same idea.

Funding this bill would raise the basic death benefit from $12,420 to $100,000. It will raise the servicemen’s group life insurance payment from $250,000 to $400,000. Senator LIEBERMAN and I, all of us in this body believe we need to make sure that our servicemen’s families are well taken care of if something were to happen to them.

I am very pleased that Senator FRIST on Friday made this part of his leadership package and that Senator JOHN WARNER, chairman of the Armed Services Committee, promised quick action in the committee on the subject. And I am very pleased that the Defense Department has worked with us in help-
permanent tax relief from the marriage penalty—the most egregious, anti-famil

ity provision that has been in the tax
code. One of my highest priorities in the U.S. Senate has been to relieve American taxpayers of this punitive burden.

Over the past four years we have made major strides to eliminate this unfair tax and provide marriage penalty relief by raising the standard deduction and enlarging the 15 percent tax bracket for married joint filers to twice the bracket for singles. Before these provisions were changed, 44 million married couples, including 2.4 million Texas families, paid an average penalty of $1,480.

Enacting marriage penalty relief has been a giant step for tax fairness, but it may be fleeting. Even as married couples use the money they now save to put food on the table and clothes on their children, a tax increase looms in the future. Since the 2001 tax relief bill was restricted, the marriage penalty provision would not be in effect through 2010. In 2011, marriage will again be a taxable event and 43 percent of married couples will again pay more in taxes unless we act decisively.

Given the challenges many families face in making ends meet, we must make sure we do not backtrack on this important reform.

The benefits of marriage are well es


dablished, yet, without marriage pen

alty relief, the tax code provides a sig

nificant disincentive for people to walk
down the aisle. Marriage is a funda

mental institution in our society and

should not be discouraged by the IRS. Children living in a married household are far less likely to live in poverty or to suffer from child abuse. Research in

dicates they are less likely to be de

pressed or have developmental prob

lems. Scourges such as adolescent drug use are less common in married fami

lies, and married mothers are less like

ty to be victims of domestic violence.

We should celebrate marriage, not penalize it. The bill I am offering would make marriage penalty relief permanent, because we cannot be satis

fied until couples never again must dec

ide between love and money. Marriage should not be a taxable event.

I call on the Senate to finish the job we started to make marriage penalty relief permanent today.

Mr. President, I ask unanimous con

sent that a copy 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. 79

Be it enacted by the Senate and House of Rep

resentatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Permanent Mar

riage Penalty Relief Act of 2005”.

SEC. 2. REPEAL OF SUNSET ON MARRIAGE PEN

ALTY RELIEF.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to unset of provisions of such Act) shall not apply to sections 301, 302, and 303 of such Act (relating to marriage penalty relief).

By Mr. INOUYE:

S. 79. A bill to require the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Veterans’ Affairs.

Mr. INOUYE. Mr. President, I am re

introducing legislation today that would direct the Secretary of the Army to determine whether certain nationals of the Philippine Islands performed military service on behalf of the United States during World War II.

Mr. President, our Filipino veterans fought side by side with Americans and sacrificed their lives on behalf of the United States. This legislation would confirm the validity of their claims and further allow qualified individuals the opportunity to apply for military and veterans benefits that, I believe, they are entitled to. As this population becomes older, it is important for our nation to extend its firm commitment to the Filipino veterans and their fami

lies who participated in making us the great nation we are today.

Mr. President, I ask unanimous con

sent that the text of my bill be printed in the RECORD.

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

S. 79

Be it enacted by the Senate and House of Rep

resentatives of the United States of America in Congress assembled,

SECTION 1. DETERMINATIONS BY THE SEC

RETARY OF THE ARMY.

(a) IN GENERAL.—Upon the written applic

ation of any person who is a national of the Philippine Islands, the Secretary of the Army shall determine whether such person performed any military service in the Phi

ippine Islands, the United States armed Forces of the United States during World War II which qualifies such person to receive any mili

tary, veterans’, or other benefits under the laws of the United States.

(b) INFORMATION TO BE CONSIDERED.—In making a determination for the purpose of subsection (a), the Secretary shall consider all information and evidence (relating to service referred to in subsection (a)) that is available to the Secretary, including in

formation and evidence submitted by the applic

ant, if any.

SEC. 2. CERTIFICATE OF SERVICE.

(a) ISSUANCE OF CERTIFICATE OF SERVICE.—

The Secretary of the Army shall issue a cer

tificate of service to each person determined by the Secretary to have performed military service described in section 1(a).

(b) EFFECT OF CERTIFICATE OF SERVICE.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the period, nature, and character of the military service described in the certifi

cate.

SEC. 3. APPLICATIONS BY SURVIVORS.

An application submitted by a surviving spouse, child, or parent of a deceased person described in section 1(a) shall be treated as an application submitted by such person.

SEC. 4. LIMITATION.

The Secretary of the Army may not con

sider for the purpose of this Act any applica

tion received by the Secretary more than two years after the date of the enactment of this Act.

SEC. 5. PROSPECTIVE APPLICATION OF DETER

MINATIONS BY THE SECRETARY OF THE ARMY.

No benefits shall accrue to any person for any period before the date of the enactment of this Act as a result of the enactment of this Act.

SEC. 6. REGULATIONS.

The Secretary of the Army shall prescribe regulations to carry out sections 1, 3, and 4.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY OF VETERANS AFFAIRS.

Any entitlement of a person to receive veterans’ benefits by reason of this Act shall be administered by the Secretary of Veterans Affairs pursuant to regulations prescribed by the Secretary of Veterans Affairs.

SEC. 8. DEFINITION.

In this Act, the term “World War II” means the period beginning on December 7, 1941, and ending on December 31, 1946.

By Mr. INOUYE:

S. 80. A bill to restore the traditional day of observance of Memorial Day, and for other purposes; to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, in our effort to accommodate many Americas making Memorial Day the last Monday in May, we have lost sight of the significance of this day to our na

tion. My bill would restore Memorial Day to May 30 and authorize our flag to fly at half mast on that day. In addi

tion, this legislation would authorize the President to issue a proclamation designating Memorial Day and Vet

erans Day as days for prayer and cere

monies. This legislation would help re

store the recognition our veterans des

erve for the sacrifices they have made on behalf of our Nation.

Mr. President, I ask unanimous con

sent that the text of my bill be printed in the RECORD.

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

S. 80

Be it enacted by the Senate and House of Rep

resentatives of the United States of America in Congress assembled,

SECTION 1. REINSTATEMENT OF TRADITIONAL DAY OF OBSERVANCE OF MEMORIAL DAY.

(a) DESIGNATION OF LEGAL PUBLIC HOLIDAY.—Section 6103(a) of title 5, United States Code, is amended by striking “Memorial Day, the last Monday in May.” and inserting the following:

“Memorial Day, May 30.”.

(b) OBSERVANCES AND CEREMONIES.—Sec

tion 116 of title 36, United States Code, is amended—

(1) in subsection (a), by striking “The last Monday in May” and inserting “May 30”;

and

(2) in subsection (b)—

(A) by striking “and” at the end of para

graph (3);

(B) by redesignating paragraph (4) as para

graph (5); and

(C) by inserting after paragraph (3) the fol

lowing new paragraph (4):

“(4) calling on the people of the United States to observe Memorial Day as a day of cere

monies for showing respect for American veterans of wars and other military con

licts; and”.

S254 CONGRESSIONAL RECORD — SENATE January 24, 2005
By Mr. INOUYE:

S. 83. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for the conversion of cooperative housing corporations into condominiums; to the Committee on Finance.

Mr. INOUYE. Mr. President, today I rise to introduce legislation which would amend the Internal Revenue Code of 1986 (relating to cooperative housing corporations (co-ops), to convert to condominium forms of ownership.

Under current law, a conversion from cooperative shareholding to condominium ownership is taxable at a corporate level as well as an individual level. The conversion is treated as a corporate liquidation, and therefore taxed accordingly. In addition, a capital gains tax is levied on any increase between the owner’s basis in the co-op shares and the current market value of the condominium interest post-conversion. This double taxation dissuades condominium conversion because the owner is being taxed on the transaction which is nothing more than a change in the form of ownership. While the Internal Revenue Service concedes that there are no discernable advantages to society of the cooperative form of ownership, they do not view federal tax statutes as providing sufficient flexibility with which to address the obstacles of conversion.

Cooperative housing organizes the ownership structure into a corporation, with shares of stock for each apartment unit, which are sold to buyers. The corporation then issues a proprietary lease entitling the owner of the stock to the use of the unit in perpetuity. Because the investment is in the form of a share of stock, investors are less likely to lose their entire investment as a result of debt incurred by the corporation in construction and development. In addition, due to the structure of a cooperative housing corporation, a prospective purchaser of shares in the corporation from an existing tenant-stockholder has difficulty obtaining mortgage financing for the purchase. Furthermore, tenant-stockholders of cooperative housing also encounter difficulties in securing bank loans for the full value of their investment.

As a result, owners of cooperative housing are increasingly looking toward conversion to the condominium structure of ownership. Condominium ownership permits the owner of a unit to own the unit itself, eliminating the cooperative housing dilemma of corporate debt that supersedes the investment of cooperative housing share owners, and other financial concerns.

The legislation I introduce today will remove the penalty of double taxation from the conversion of cooperative housing to condominium ownership, and will greatly benefit co-op owners across the nation. The bill does not apply to cooperatives which have been or are now being financed by any federal, state, or local programs for the purpose of assisting in the construction of affordable housing cooperatives or the conversion of rental units to affordable housing cooperatives. However, I do urge my colleagues’ consideration and support for this measure.

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

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

S. 83

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

SECTION 1. NONRECOGNITION OF GAIN OR LOSS ON DISTRIBUTIONS BY COOPERATIVE HOUSING CORPORATIONS.

(a) IN GENERAL.—Section 216(e) of the Internal Revenue Code of 1986 (relating to distributions by cooperative housing corporations) is amended to read as follows:

(1) Distributions by Cooperative Housing Corporations.—

(A) no gain or loss shall be recognized to a cooperative housing corporation on the distribution of such cooperative corporation of a dwelling unit to a stockholder in such corporation if such distribution is in exchange for the stockholder’s stock in such corporation, and

(B) no gain or loss shall be recognized to a stockholder of such corporation on the transfer of such stockholder’s stock in such corporation, and

(2) BASIS.—The basis of a dwelling unit acquired in a distribution to which paragraph (1) applies shall be the same as the basis of the stock in the cooperative housing corporation for which it is exchanged, decreased in the amount of any money received by the taxpayer in such exchange.

(b) APPLICABILITY.—This subsection shall not apply with respect to any dwelling unit the basis of which includes financing under any Federal, State, or local program for the purpose of assisting the construction of affordable housing cooperatives or the conversion of rental units to affordable housing cooperatives.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

By Mr. INOUYE:

S. 84. A bill to amend the Internal Revenue Code of 1986 to exempt certain sightseeing flights from taxes on air transportation; to the Committee on Finance.

Mr. INOUYE. Mr. President, I rise to introduce a bill that would amend the Internal Revenue Code of 1986 to exempt certain sightseeing flights from the air transportation excise tax. A clarifying amendment to the Tax Code is needed due to a problem that exists in the application of the excise tax.

In 1986, the Internal Revenue Service (IRS), issued a Private Letter Ruling in which it exempted one Hawaii-based air tour operator from paying the air passenger transportation excise tax, but has not applied equal treatment to other similarly situated aerial sightseeing tour operators. It is my belief that the IRS should be consistent in its application of this excise tax.

Under current law, a variety of excise taxes on air transportation are imposed to finance the Airport and Airway Trust Funds program that is administered by the Federal Aviation Administration. For example, an air passenger transportation excise tax is imposed on users of commercial airports and airways. The Congress intended that the tax be levied on passengers traveling on scheduled commercial airlines. In addition, for the most part, the tax is imposed on each flight segment.

The Congress did not intend to have the tax applied to air tour operators, who utilize our system of airways differently. Our national transportation system receives little or no benefit from aerial sightseeing operations. Air tour operations are not scheduled commercial airlines. They are for entertainment purposes and are circular, in that they begin and end at the same destination point.

Recreational flight is a small handful of States where our citizens can enjoy aerial tours of sights that are remote or difficult to reach by land. Aerial sightseeing tours are also enjoyed in Alaska, California, Washington, Arizona, and even New York City. The imposition of the air transportation excise tax on aerial sightseeing flights will significantly raise the consumer price on air tours. Doing so will cause many small aerial sightseeing tour operators, especially in my home state, to lose customers. Many of these small companies have struggled to stay in business after incurring significant losses in the months following September 11, 2001, when our government imposed flight restrictions across the nation. These flight restrictions prevented many flight operations in all segments of the general aviation industry for many months into early 2002.

Accordingly, I urge my colleagues to support my bill, which would amend the Internal Revenue Code of 1986 to exempt certain sightseeing trips from the air transportation excise tax. Under my bill, air tour operations would still be subject to the aviation fuel excise tax.

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

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

S. 84

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

SECTION 1. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 5281 of the Internal Revenue Code of 1986 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: "For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect
to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date.

By Mr. INOUYE:

S. 87. A bill to recognize the organization known as the National Academies of Practice; to the Committee on the Judiciary.

Mr. INOUYE. Mr. President today I am introducing legislation that would provide a federal charter for the National Academies of Practice. This organization represents outstanding health care professionals who have made significant contributions to the practice of applied psychology, medicine, dentistry, nursing, optometry, osteopathic medicine, pharmacy, podiatry, social work, and veterinary medicine. When fully established, each of the ten academies will possess 15 distinguished practitioners selected by their peers. This umbrella organization will be able to provide the Congress of the United States and the executive branch with considerable health policy expertise from the perspective of those individuals who are in the forefront of actually providing health care.

As we continue to grapple with the many complex issues surrounding the delivery of health care services, it is clearly in our best interest to ensure that the Congress has direct and immediate access to the recommendations of an interdisciplinary body of health care practitioners.

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

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

S. 87

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

SECTION 1. SHORT TITLE. This Act may be cited as the “National Academies of Practice Recognition Act of 2005”.

SEC. 2. CHARTER. The National Academies of Practice organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a Federal charter.

SEC. 3. CORPORATE POWERS. The National Academies of Practice (referred to in this Act as the “corporation”) shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 4. OBJECTIVES AND PURPOSES OF THE CORPORATION. The objectives and purposes for which the corporation is organized shall be provided for in the articles of incorporation and shall include the following:

(1) Honoring persons who have made significant contributions to the practice of applied dentistry, medicine, nursing, optometry, osteopathy, pharmacy, podiatry, psychology, social work, veterinary medicine, and other health care professions by disseminating information about new techniques and procedures, promoting interdisciplinary practices, and stimulating multidisciplinary exchange of scientific and professional information.

(2) Upon request by the President, the members of the President’s Cabinet, Congress, Federal agencies, and other relevant groups about practitioner issues in health care and health policy, from a multidisciplinary perspective.

SEC. 5. SERVICE OF PROCESS. With respect to service of process, the corporation shall have service of process in the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 6. MAILING ADDRESS. The mailing address of the corporation shall be as provided in the bylaws of the corporation.

SEC. 7. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES. The composition and the responsibilities of the board of directors of the corporation shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. OFFICERS OF THE CORPORATION. The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 9. RESTRICTIONS.

(a) USE OF INCOME AND ASSETS.—No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of the charter under this Act. No part of the assets of the corporation shall be used to engage in or make any loan to any political activity, or in any manner attempt to influence legislation.

(b) ISSUANCE, INTEREST AND PAYMENT OF DIVIDENDS.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(c) CLAIMS AND DEBTS OF THE CORPORATION.—The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(f) FEDERAL ADVISORY ACTIVITIES.—While providing advice to Federal agencies, the corporation shall be subject to the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 Stat. 1941).

SEC. 10. LIABILITY. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 11. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS. (a) BOOKS AND RECORDS OF ACCOUNT.—The corporation shall maintain complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) NAMES AND ADDRESSES OF MEMBERS.—The corporation shall keep at its principal office a complete record of the names and addresses of all members having the right to vote in any proceeding of the corporation.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

SEC. 12. ANNUAL REPORT. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. The report shall not be printed as a public document.

SEC. 13. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER. The right to alter, amend, or repeal this Act is expressly reserved to Congress.

SEC. 14. DEFINITION. In this Act, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 15. TAX-EXEMPT STATUS. The corporation shall maintain its status as an organization exempt from Federal Government taxation as provided in the Internal Revenue Code of 1986 or any corresponding similar provision.

SEC. 16. TERMINATION. If Congress fails to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall terminate.

By Mr. INOUYE:

S. 88. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect, to be conducted by a clinical social worker; to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, today I introduce legislation to amend Title 18 of the United States Code to allow our Nation’s clinical social workers to use their mental health expertise on behalf of the federal judiciary by conducting psychological and psychiatric exams.

I feel that the time has come to allow our Nation’s judicial system to have access to a wide range of behavioral science and mental health expertise. I am confident that the enactment of this legislation would be very much in our Nation’s best interest.

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

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

S. 88

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 “Psychiatric and Psychological Examinations Act of 2005”.

SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS. Section 3421(b) of title 18, United States Code, is amended, in the first sentence, by striking “psychiatrist or psychologist” and inserting “psychiatrist, psychologist, or clinical social worker”.

By Mr. INOUYE:

S. 89. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in professional
psychology eligible to participate in various health professions loan programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, I rise to introduce legislation today to modify Title VII of the Public Health Service Act in order to provide students enrolled in graduate psychology programs with the opportunity to participate in various health professions loan programs.

Providing students enrolled in graduate psychology programs with eligibility for financial assistance in the form of loans, loan guarantees, and scholarships will facilitate a much-needed infusion of behavioral science expertise into our community of public health providers. There is a growing recognition of the valuable contribution being made by psychologists toward solving some of our Nation’s most distressing problems.

The participation of students from all backgrounds and clinical disciplines is vital to the success of health care training. The Title VII programs play a significant role in providing financial support for the recruitment of minorities, women, and individuals from economically disadvantaged backgrounds. Minority therapists have an advantage in the provision of critical services to minority populations because often they can communicate with clients in their own language and cultural framework.

Minority therapists are more likely to work in community settings where ethnic minority and economically disadvantaged individuals are most likely to seek care. It is critical that continued support be provided for the training of individuals who provide health care services to underserved communities.

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

The PRESIDENT ordered the bill to be printed in the RECORD, as follows:

S. 90
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS. This Act may be cited as the “National Center for Social Work Research Act”.

SEC. 2. FINDINGS. Congress finds that—

1. social workers focus on the improvement of individual and family functioning and the creation of effective health and mental health prevention and treatment interventions in order for individuals to become more productive members of society;

2. social workers provide front line prevention and treatment services in the areas of school violence, aging, teen pregnancy, child abuse, domestic violence, juvenile crime, and substance abuse, particularly in rural and underserved communities; and

3. social workers are in a unique position to provide valuable research information on these complex social concerns, taking into account a wide range of social, medical, economic and community influences from an interdisciplinary, family-centered and community-based approach.

SEC. 3. ESTABLISHMENT OF NATIONAL CENTER FOR SOCIAL WORK RESEARCH.

(a) In General.—Section 799B(b)(2) of the Public Health Service Act (42 U.S.C. 295m) is amended by striking “clinical” and inserting “professional”.

(b) Establishment.—Part E of title IV of the Public Health Service Act (42 U.S.C. 297 et seq.) is amended by adding at the end the following:

“Subpart 7—National Center for Social Work Research

SEC. 485J. PURPOSE OF CENTER.

The general purpose of the National Center for Social Work Research (referred to in this subpart as the ‘Center’) is the conduct and support of, and dissemination of targeted research concerning social work methods and outcomes related to problems of significant social concern. The Center shall—

1. promote research and training that is designed to inform and guide social work practices, thus increasing the knowledge base which promotes a healthier America; and

2. provide policymakers with empirically based research results to enable such policymakers to better understand complex social issues and make informed funding decisions about service effectiveness and cost efficiency.

SEC. 485K. SPECIFIC AUTHORITIES.

(a) In General.—To carry out the purpose described in section 485J, the Director of the Center may provide research training and instruction and establish, in the Center and in other nonprofit institutions, research traineeships and fellowships in the study and implementation of programs for disease, health promotion, the association of socioeconomic status, gender, ethnicity, age and geographical location and health, the social work care of individuals with, and families of individuals with, acute and chronic illnesses, child abuse, neglect, and youth violence, and child and family care to address problems of significant social concern especially in underserved populations and underserved geographical areas.

(b) STIPENDS AND ALLOWANCES.—The Director of the Center may provide stipends and allowances to individuals receiving training and instruction or traineeships or fellowships under subsection (a) with such stipends and allowances (includ-
Social workers have long provided quality mental health services to our citizens and continue to be at the forefront of establishing innovative programs to serve our disadvantageous populations. I believe it is important to ensure that the special expertise social workers possess continues to be available to the citizens of this Nation. This bill, by providing financial assistance to schools of social work and social work students, acknowledges the long history and critical importance of the services provided by social work professionals. I believe it is time to provide them with the recognition they deserve.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.
There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 91  

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 “Strengthens Social Work Training Act of 2005”.

SEC. 2. SOCIAL WORK STUDENTS.  
(a) Fiscal year 2007. —Section 736(g)(1)(A) of the Public Health Service Act (42 U.S.C. 293g(1)(A)) is amended by striking “graduate program in behavioral or mental health” and inserting “graduate program in behavioral or mental health, including a school offering graduate programs in clinical social work, or programs in social work”.

(b) Scholarships.—Section 737(d)(1)(A) of the Public Health Service Act (42 U.S.C. 293d(d)(1)(A)) is amended by striking “mental health practice” and inserting “mental health practice (including graduate pro-
grams in clinical psychology, graduate pro-
gress in clinical social work, or programs in social work)”,

(c) Faculty positions. —Section 738(a)(3) of the Public Health Service Act (42 U.S.C. 293a(a)(3)) is amended by striking “offering degree in behavioral and mental health” and inserting “offering graduate programs in behavioral and mental health, including graduate programs in clinical psychol-
yists, and clinical social workers”; and

(d) Duration of award. —The period dur-
ing which payments are made to an entity under paragraph (3) of subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary and subject to the availability of appropriations for the fiscal year involved to make the payments.

(1) Funding. —

(1) Authorization of appropriations. —There are authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 2006 through 2008.

(2) Allotment. —Of the amounts appropri-
ated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 20 percent for grants and con-
tracts under subsection (a).

(2) in paragraph (4)(A), by striking “clinical social work”.

SEC. 3. GERIATRICS TRAINING PROJECTS.  
Section 735(b)(1) of the Public Health Service Act (42 U.S.C. 293c(b)(1)) is amended by inserting “school offering degrees in social work” after “teaching hospitals.”.

SEC. 4. SOCIAL WORK TRAINING PROGRAM.  
Subpart 2 of part E of title VII of the Pub-
lic Health Service Act (42 U.S.C. 296 et seq.) is amended—

(1) by redesignating section 770 as section 770A;

(2) by inserting after section 769, the fol-
lowing:

“SEC. 770. SOCIAL WORK TRAINING PROGRAM.  
“(a) Training Generally.—The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hos-
pital, any school offering programs in social work, or to or with a public or private non-
profit entity in the Secretary has deter-
mined is capable of carrying out such grant or contract—

(1) to plan, develop, and operate, or par-
ticipate in, an approved social work training program (including an approved residency or internship program) for students, interns, residents, or practicing physicians;

(2) to provide financial assistance (in the form of traineeships and fellowships) to stu-
dents, interns, residents, practicing physi-
cians, or other individuals, who—

(A) are in need of such assistance;

(B) are participants in any such program; and

(C) plan to specialize or work in the prac-
tice of social work;

(3) to plan, develop, and operate a pro-
gram for the training of individuals who plan to teach in social work training programs; and

(4) to provide financial assistance (in the form of traineeships and fellowships) to indi-
viduals who are participants in any such pro-
grams and who plan to teach in a social work training program.

(b) Academic Administration Units.—

(1) In general.—The Secretary may make grants to, or enter into contracts with schools offering programs in social work to meet the costs of projects to establish, main-
tain, or improve academic administrative units (which may be departments, divisions, or other units) to provide clinical instruc-
tion in social work.

(2) Preference in making awards.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant for such an award if the applicant proposes to expend the award for the purpose of—

(A) establishing an academic administra-
tive unit for programs in social work; or

(B) substantially expanding the programs of such a unit.

(c) Duration of award. —The period dur-
ing which payments are made to an entity under paragraph (3) of subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary and subject to the availability of appropriations for the fiscal year involved to make the payments.

(1) Funding.—

(1) Authorization of appropriations. —There are authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 2006 through 2008.

(2) Allotment. —Of the amounts appro-
itated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 20 percent for grants and con-
tracts under subsection (a).

(2) in paragraph (4)(A), by striking “clinical social work”.

“(A) Health professions schools. —

SEC. 7.7. SOCIAL WORK TRAINING PROGRAM.  
Section 730 of the Public Health Service Act (42 U.S.C. 293e–1) is amended—

(1) in paragraphs (1) and (2), by inserting “clinical social worker,” after “psycholo-
gist,” each place the term appears;

(2) in paragraph (4)(A), by striking “and psychologists” and inserting “psychologists, and clinical social workers”; and

(3) in paragraph (5), by inserting “clinical social work,” after “psychology.”.

By Mr. INOUYE:  
S. 92. A bill to amend title VII of the Public Health Service Act to establish a psychology post-doctoral fellowship program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, I am in-
roducing legislation today to amend Title VII of the Public Health Service Act to establish a psychology post-doc-
tor program. Psychologists have made a unique contribution in reaching out to the nation’s medically underserved populations. Expertise in behav-
orial science is useful in addressing grave concerns such as violence, addic-
tion, mental illness, adolescent and child behavioral disorders, and family disruption. Establishment of a psy-
chology post-doctoral program could be an effective way to find solutions to these issues.

Similar programs supporting addi-
tional, specialized training in tradi-
tionally underserved settings have been successful in retaining partici-
pants to serve the same populations. For example, mental health profes-
sionals who have participated in these specialized federally funded programs have tended to meet their re-
payment obligations, but have continued to work in the public sector or with the underserved.

While a doctorate in psychology pro-
vides broad-based knowledge and mas-
tery in a wide variety of clinical skills, specializations post-doctoral fellowship programs help to develop particular di-
agnostic and treatment skills required to respond effectively to underserved populations. For example, what ap-
pears to be poor academic motivation in a child recently relocated from Southeast Asia might actually reflect a cultural value of reserve rather than a disinterest in academic learning. Specialized assessment skills enable the clinician to initiate effective treat-
ment.

Domestic violence poses a significant public health problem and is not just a problem for the criminal justice sys-
tem. Violence against women results in thousands of hospitalizations a year. Rates of child and spouse abuse in rural areas are particularly high, as are the rates of alcohol abuse and de-
pression in adolescents. A post-doc-
tor fellowship in psychology of the rural populations could be of special benefit in addressing these problems.

Given the demonstrated success and effectiveness of specialized training programs, it is incumbent upon us to encourage participation in post-doc-
tor fellowships that respond to the needs of the nation’s underserved.

Mr. President, I ask unanimous con-
sent that the text of this bill be printed in the RECORD.

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

S. 92  

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

SECTION 1. SHORT TITLE.  
This Act may be enacted by the Senate and House of Repre-
sentatives of the United States of America in Congress assembled,

SEC. 2. GRANTS FOR FELLOWSHIPS IN PSY-
CHOLOGY.

Part C of title VII of the Public Health Service Act (42 U.S.C. 293k et seq.) is amend-
ed by adding at the end the following:

“SEC. 749. GRANTS FOR FELLOWSHIPS IN PSY-
CHOLOGY.  
“(a) In general.—The Secretary shall es-

cablish a psychology post-doctoral fellowship program to make grants to and enter into contracts with eligible entities to encourage the provision of psychological training and services in underserved treatment areas.

(b) Eligible entities.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information, as the Secretary shall require, including a certification that such indi-
vidual—

(1) has received a doctoral degree through a graduate program in psychology provided by an accredited institution at the time such grant is awarded;

(2) will provide services to a medically underserved population during the period of such grant;

(3) will comply with the provisions of subsection (c); and

(4) will provide any other information or assurances as the Secretary determines ap-
propriate.
(2) INSTITUTIONS.—In order to receive a grant or contract under this section, an institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

(A) is an entity, approved by the State, that provides services in medically underserved areas or to medically underserved populations (including entities that care for the mentally retarded, mental health institutions, and prisons); and

(B) will use amounts provided to such institution under this section to provide financial assistance in the form of fellowships to qualified individuals who meet the requirements of subparagraphs (A) through (C) of paragraph (1);

(C) will not use more than 10 percent of amounts provided under this section to pay for the administrative costs of any fellowship programs established with such funds; and

(D) will provide any other information or assurances as the Secretary determines appropriate.

(c) CONTINUOUS PROVISION OF SERVICES.—Any individual who receives a grant or fellowship under this section shall certify to the Secretary that such individual will continue to provide the type of services for which a grant or fellowship is awarded for not less than 1 year after the term of the grant or fellowship has expired.

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that define the terms ‘medically underserved areas’ and ‘medically underserved populations’.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of the fiscal years 2006 through 2008.

By Mr. INOUYE:

S. 93. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. On behalf of myself and Senators LEAHY, LINCOLN, DOLE, and SMITH, I rise today to introduce the Good Samaritan Hunger Relief Tax Incentive Act of 2005. This important legislation allows for expanded charitable tax deductions for contributions of food inventory to our nation’s food banks and would permit farmers and businesses of all sizes to take advantage of this tax deduction. Demand on food banks has been rising, and these tax deductions would be an important step in increasing private donations to the non-profit hunger relief charities playing a critical role in meeting America’s nutritional needs.

To a certain degree, donations have not diminished or have even modestly increased, but most areas surveyed report that donations cannot keep up with the growing demand. According to the U.S. Conference of Mayors and Sodexo USA “Hunger and Homelessness Survey released in December 2004, hunger and homeless-ness have increased fourteen percent. Fifty-six percent of the people requesting emergency food assistance are either children or their parents. The number of elderly persons requesting food assistance has increased by twelve percent. The success of welfare reform legislation has moved many recipients off welfare and into jobs. Over the last decade, in many states welfare roles have been reduced by more than one-half. But we need to recognize that these individuals and their families are living on modest wages. As the states’ unemployment rates have risen, so have the dependency placed on the food banks and soup kitchens. The problem of hunger goes well beyond the unemployed. The Mayors’ survey points out that thirty-four percent of people requesting food assistance were working. Due to increases in rent, unemployment, multigenerational residences, families have to make the tough financial decisions. As a result, food needs of families have been pushed further and further down the priority list. This is coupled with the nutritional value being taken away from some families because fast food and “junk” food is more economical to those on a tight budget.

Private food banks provide a key safety net against hunger. According to the 2002 report by the U.S. Department of Agriculture, over 13 million children were hungry or at the risk of being hungry.

America’s Second Harvest, a nationwide network of food banks and food rescue organization, released a 2001 report entitled “Hunger in America” stating that 23.3 million people sought and received emergency hunger relief from just their network of charitable organizations. That would be the equivalent of the populations of New York, Los Angeles, Chicago, Houston, Philadelphia, San Diego, Phoenix, San Antonio, Dallas, and Detroit combined. In 1997, the USDA estimated that up to 96 billion pounds of food goes to waste each year in the United States at a cost of an estimated $1 billion in increased disposal fees paid by municipalities. This is food and fresh produce that is left unharvested or in storage bins, discarded by wholesalers, restaurants, and grocery stores, or reduced by the manufacturing or transportation process. If a small percentage of this wasted food could be redirected to food banks, we could make important strides in our fight against hunger. I believe the enactment of this legislation would be a great incentive in redirecting this food from being discarded to being distributed to hungry families.

The Good Samaritan Hunger Relief Tax Incentive Act would allow farmers and small business owners to take a deduction when they donate food to their community food bank. Currently this reduction is available to large corporations but not for small businesses. This approach would stimulate private charitable giving at the community level. Each citizen can make an important contribution to the fight against hunger at a local level. Over the years, I have had the opportunity to visit numerous Hoosier food banks, and have been especially impressed by the remarkable work of these organizations. In many cases, they are partnered with churches and faith-based organizations and are making a tremendous difference in their communities. We should support this private sector activity, which not only feeds people, but also strengthens community bonds and demonstrates the power of faith, charity, and civic involvement.

Thank you, Mr. President. I yield the floor.

By Mr. LAUTENBERG (for himself and Mr. DEWINE):

S. 95. A bill to amend titles 23 and 49, United States Code, concerning length and weight limitations for vehicles operating on Federal-aid highways, and for other purposes; to the Committee on Environment and Public Works.

Mr. LAUTENBERG. Today, I am proud to introduce, along with my colleague Senator DeWINE, legislation which will make our roads safer and last longer. Our bill, the “Safe Highway Investments for Emergency Act,” will extend the current limited freeze of current truck size and weight limits set by states, which only applies to our 44,000-mile Interstate Highway System, to the entire 156,000-mile National Highway System (NHS). This extension will make more roads safer and will further reduce the wear and tear of our highways and bridges.

Fifteen years ago, I got a provision into the ISTEA highway reauthorization bill to ban triple-trailer trucks and other so-called “longer combination vehicles” (LCVs) from New Jersey and most other States. At that time and ever since, the trucking industry has fought to defeat and repeal this ban, under the guise of arguments for “safety rights” and “unfair re-distribution of business to railroads.” But these are not rational arguments for allowing larger and heavier trucks as well as triple-trailer trucks on our roads. Additionally, the trucking industry’s proclaimed hardships have not materialized. In fact, the trucking companies have survived the current laws quite well, and trucks have re-fined their role in our national freight transportation system.

Anyone who has shared the road with a large tractor-trailer truck has probably wondered whether the truck driver is aware of the smaller vehicles around the truck. Anyone who has seen the third trailer on a triple-trailer truck swinging around in a ‘crack the whip’ fashion probably knows that these trucks are to be avoided.

Moving to the use of even larger trucks is not safe. The U.S. Department of Transportation has determined that multi-trailer trucks are likely to be involved in more fatal crashes—11 percent more than today’s single-trailer trucks. By expanding the limits on triples and other longer combination

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vehicles to the entire NHS including more than 2,000 miles of highway in New Jersey the Safe Highways and Infrastructure Protection Act will save lives and prevent further deterioration of our roads and bridges.

The State of New Jersey sees its share of the nation’s truck traffic. And we are concerned about recent projections that show the amount of traffic increasing considerably over the next 10 to 20 years. We are concerned about these 55-foot, 80,000-pound vehicles on our roads and bridges. In other states to increase weight and length limitations to allow larger trucks to come through our State. This makes truck traffic safety even more important to New Jersey drivers.

Triple-trailers and other LCVs do more damage to our roads and bridges but don’t come close to paying associated maintenance and repair costs. Currently, some 37 percent of bridges in New Jersey are considered structurally functionally obsolete. Their average age is 42 years old. But the fees, tolls, and gasoline taxes paid by the operator of a 100,000-pound truck only covers 40 percent of the cost of the damage that truck does to our roads and bridges; taxpayers make up the difference. I believe that motorists should not have to share the road with these dangerous behemoths and pay for the extra damage they cause.

In the 108th Congress, the Senate passed portions of this legislation in the Highways Reauthorization legislation package. I believe that if we act to pass this legislation, we can make a big difference in the lives of people who share our highways with large truck traffic.

I thank my colleague Senator DeWINE for once again joining me in sponsoring this important legislation, and I look forward to working with my colleagues in the Congress to improve highway safety and increase the remaining life of our country’s roads and bridges.

Mr. President, 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.

(The bill will be printed in a future edition of the RECORD.)

By Mr. INHOFE:

S. 96. A bill to target Federal funding for research and development, to amend section 1928 of the Social Security Act to encourage the production of influenza vaccines by eliminating the price cap applicable to the purchase of such vaccines under contracts entered into by the Secretary of Health and Human Services, to amend the Internal Revenue Code of 1986 to establish a tax credit to encourage vaccine production capacity, and for other purposes; to the Committee on Finance.

Mr. INHOFE. Mr. President, I have long been dedicated to quality healthcare for my constituents in Oklahoma and across America. I supported the Medicare bill of 2003 to give a voluntary prescription drug benefit to seniors. I have championed the rural health care providers, who received some of the greatest benefits of the Medicare bill. In 1997, I was one of few Republicans to vote against the Balanced Budget Act of 1997 because of the lack of support for rural hospitals. Back then, I made a commitment to not allow our rural hospitals to be closed, and I am pleased we finally addressed that important issue in the Medicare legislation this Congress. I was also a sponsor of S. 816, the Health Care Access and Rural Equity Act, to protect and preserve access of Medicare beneficiaries to health care in rural regions.

I am a strong advocate of medical liability reform and am an original co-sponsor of S. 11, the Patients First Act, to protect patients’ access to quality and affordable health care by reducing the effects of excessive liability costs. There are solutions to alleviate the burden placed on physicians and patients by excessive medical malpractice lawsuits, and I am committed to this vital reform.

I have also worked with officials from the Center for Medicare and Medicaid Services to increase access to life-saving Implantable Cardiac Defibrillators. I supported legislation to increase the supply of pancreatic islet cells for research and co-sponsored a bill to take the abortion pill RU-486 off the market in the United States.

The Federal Government invests in improving hospitals and healthcare initiatives, and I have fought hard to ensure that Oklahoma gets its fair share. Specifically, over the past three years, I have helped to secure $5.2 million in funding for the Oklahoma Medical Research Foundation, the Oklahoma State Department of Health planning initiative for a rural telemedicine system, the Diabetes Health Care System, the University of Oklahoma Health Sciences Center, the Oklahoma Center for the Advancement of Science and Technology, St. Anthony’s Heart Hospital, the Hillcrest Healthcare System, and the Morton Health Center.

Mr. President, the unexpected influenza (flu) vaccine shortage beginning last month highlights the need to encourage the production of flu vaccine in America. As you know, on October 5, 2004, Chiron, a California-based biotechnology company, notified U.S. health officials that its plant in Liverpool, England had been shut down due to vaccine contamination. Almost 50,000 doses of flu vaccine were thrown away, which created a severe shortage for Americans just as the flu season began.

In light of the current shortage, I have examined why America found itself unable to accommodate the public demand for the flu vaccine. As we have seen in other vaccine shortages, a rapid response is difficult and often impossible. Thirty years ago, more than a dozen American companies were in the flu vaccine business. Today, only two companies make the vaccine for America, and only one is an America-based company. This is no coincidence. High liability costs, tedious production, price caps, and the complicated United States tax code have kept small vaccine companies out of the market.

In October, President Bush signed the JOBS bill, which curbed the billion-dollar lawsuits that have crippled the flu vaccination industry. By adding flu vaccine to the list of vaccines protected by the National Vaccine Injury Compensation Program (VICP), a no-fault alternative must be used for resolving vaccine injury claims. I am encouraged with this progress, but more can be done to prevent a shortage in the future.

The FY2005 Omnibus bill provides $100 million to the Department of Health and Human Services (HHS) to ensure a year-round flu vaccine production capacity and for the development and expansion of production technologies. The Omnibus language also permits HHS to purchase flu vaccine with these funds, if deemed necessary. Such costly purchasing is a waste of federal dollars that could otherwise be used for research with the National Institutes of Health to develop faster and safer vaccine production technology. My bill strikes the language that allows government purchasing of the flu vaccine with these funds.

Optimizing the flu vaccine production process is imperative. The ever-changing nature of the flu virus results in a complicated production process. The dominant strain of the flu virus mutates each year, requiring a different vaccine for every flu season. Because harvesting the flu vaccine currently takes at least six months and requires tens of thousands of fertilized eggs susceptible to contamination, this process must begin nearly a year before the flu season begins.

Research should be focused on developing new technologies to allow us to produce more vaccine—in the same season—when we encounter a shortage. For example, a company in Connecticut is developing a flu vaccine relying on cell lines from silk moths. Reverse genetics technology also holds potential that researchers should explore. These types of innovative research promise to shave at least one month off of production time and significantly reduce cost.

Rather than temporarily masking problems through wasted spending on vaccine surpluses, my bill would ensure that the federal government invests in lastling solutions to the challenges of flu vaccine production. The encouragement of safer and faster flu vaccine production technology is a prudent use of federal research dollars through the National Institutes of Health.

To invest in these new technologies, flu vaccine manufacturers will have to renovate existing facilities or construct new ones. My bill gives a tax
credit to companies, new and old, to assist them in this important venture. Currently, ten American companies produce the forty-seven FDA-approved vaccines. An investment tax credit will encourage these existing companies to expand on their ability to produce flu vaccine and will invite start-up companies to join the industry. This will better equip the United States market to prevent and deal with a shortage in the future. Further, my bill removes the price controls that have discouraged companies from producing the flu vaccine. The Vaccines For Children program (VFC), enacted under the Clinton Administration, imposed a price cap on all vaccines purchased through federal contracts. From a shortsighted perspective, these regulated prices may expand access to vaccines. However, in the long run this policy has devastated the vaccine production industry and decreases the availability of vaccines. This occurred in 1998 when manufacturers of Tetanus Diphtheria vaccine refused to bid on government contracts. Consequently, this vaccine is no longer available to children through the VFC program.

Similarly, the CDC purchased nearly 12 percent of the flu vaccine this season, and significant quantities were purchased through the Department of Defense, the Veteran’s Administration, and Medicare. The price controls imposed from federal government purchasing create a high-risk, low-reward business market. Price controls destroy any profit incentive. Manufacturers avoid this artificial environment and will continue to as long as the government oversteps its bounds. The harmful effect of government price controls is especially pronounced in the flu vaccine market because the vaccine has a single-season shelf life. The difficulty of predicting the demand for vaccines each year exposes companies to great risk. A slight drop in demand can force them out of the market. Financial losses—from seven million extra doses in 2002 and 4.5 million extra in 2003—compelled Wyeth Pharmaceutical Company to end its flu vaccine manufacturing.

Scientific experts consider vaccination to be the most effective medical intervention, and we live in an age of unprecedented vaccine development and implementation. We cannot continue to over-regulate the flu vaccine industry and hope companies will hang on and produce vaccines regardless of profit. The current national flu vaccine shortage reveals the need to act.

My bill would steer NIH research dollars towards cutting-edge technology, remove suffocating price controls, and free companies to enter the flu vaccine industry with an investment tax credit. I urge my colleagues to stand with me in supporting this vital legislation.

By Mr. TALENT:

S. 102. A bill to provide grants to States to combat methamphetamine abuse; to the Committee on the Judiciary.

Mr. TALENT. Mr. President, 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. 102

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 “Exile Meth Act”.

SECTION 2. ESTABLISHMENT OF GRANT PROGRAM TO ENCOURAGE MANUFACTURERS TO END FRAUDULENT REPEAL OFFENDERS.

The Attorney General shall establish a program that provides grants to qualified States for combating the problem of methamphetamine abuse, with a specific focus on the prosecution of repeat offenders.

SECTION 3. DEFINITION.

As used in this Act, the term “qualified State” means a State that—

(1) had more than 200 methamphetamine lab seizures in 2004, as reported by the National Clandestine Laboratory Database; and

(2) has a law that a person who possesses or distributes 5 grams or more of methamphetamine, its salts, isomers, or salts of its isomers, or 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers, qualifies for a mandatory minimum sentence, without the possibility of probation or parole, of 5 to 20 years for a first offense, 10 years to life for a second offense, and life for a third offense.

SECTION 4. DISTRIBUTION OF GRANT AMOUNTS.

The Attorney General shall distribute grants authorized under this Act to 2 States.

SECTION 5. ADMINISTRATION.

The Attorney General shall prescribe requirements, including application requirements, for grants under the program established under this Act.

SECTION 6. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 2006 and 2007 to carry out this Act.

(b) Use of Funds.—The funds allocated under subsection (a) shall remain available until expended.

By Mr. TALENT (for himself, Mrs. FEINSTEIN, Mr. BAYH, Mr. NELSON of Nebraska, Mr. DAYTON, Mr. WYDEN, Mr. SALAZAR, Mr. HAGEL, Mr. HARKIN, Mr. SMITH, Mr. COLEMAN, and Mr. GRASSLEY):

S. 103. A bill to respond to the illegal production, distribution, and sale of methamphetamine.

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

S. 103

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 “Combating Meth with Meth Act of 2005”.

TITLE I—ENFORCEMENT

SEC. 101. AUTHORIZATION OF APPROPRIATIONS RELATING TO COPS GRANTS.

(a) In General.—In addition to any other funds authorized to be appropriated for fiscal years 2006 and 2007 for grants under section 101 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796d) and such other amounts as may be appropriated for such purpose to provide training to State and local prosecutors and law enforcement agents for the investigation and prosecution of methamphetamine offenses and for training State and local law enforcement agents for the investigation and prosecution of methamphetamine offenses, there are authorized to be appropriated $3,000,000 to each State for grants to local law enforcement entities to combat methamphetamine offenses and to provide training to local law enforcement entities to combat methamphetamine offenses.

(b) RURAL SET-ASIDE.—Of amounts made available under subsection (a), $3,000,000 shall be available only for prosecutors and law enforcement agents for the investigation and prosecution of methamphetamine offenses.

SEC. 102. EXPANSION OF METHAMPHETAMINE HOT SPOTS PROGRAM TO INCLUDE PERSONNEL AND EQUIPMENT FOR ENFORCEMENT, PROSECUTION, AND CLEANUP.

Section 1701(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796d(d)) is amended—

(1) in paragraph (11) by striking “and” at the end;

(2) in paragraph (12) by striking the period at the end and inserting “,”; and

(3) by adding at the end the following:

“(13) hire personnel and purchase equipment to assist in the enforcement and prosecution of methamphetamine offenses and the cleanup of methamphetamine-affected areas.”

SEC. 103. SPECIAL UNITED STATES ATTORNEYS’ PROGRAM.

(a) In General.—The Attorney General shall allocate any amounts appropriated pursuant to the authorization under subsection (c) for the hiring and training of special assistant United States attorneys.

(b) Use of Funds.—The funds allocated under subsection (a) shall be used to—

(1) train local prosecutors in techniques used to prosecute methamphetamine cases, including the presentation of evidence related to the manufacture of methamphetamine; (2) train local prosecutors in Federal and State laws involving methamphetamine manufacture or distribution;

(3) cross-designate local prosecutors as special assistant United States attorneys; and

(4) hire additional local prosecutors who—

(A) with the approval of the United States Attorney, shall be assigned a caseload, whether in Federal or State trials related to methamphetamine, and cases;

(B) shall be assigned a caseload, whether in State court or Federal court, that gives the highest priority to cases in which—

(i) charges related to methamphetamine manufacture or distribution are submitted by law enforcement for consideration; and

(ii) the defendant has been previously convicted of a crime related to methamphetamine manufacture or distribution.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 for each of the fiscal years 2006 and 2007 to carry out the provisions of this section.

SEC. 104. PSEUDOPHEDRINE AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

(a) ADDITION OF PSEUDOEPHEDRINE TO SCHEDULE V.—Section 202 of the Controlled Substances Act (21 U.S.C. 812) is amended by adding at the end the following:

“(6) Any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers.”

(b) PRESCRIPTIONS.—Section 309(c) of the Controlled Substances Act (21 U.S.C. 829(c)) is amended—
(1) by inserting “(1)” before “No controlled substance”; and
(2) by adding at the end the following:

“(2) If the substance described in paragraph (1) of this section is dispensed, sold, or distributed in a pharmacy—

(A) the substance shall be dispensed, sold, or distributed by a licensed pharmacist or a licensed pharmacy technician; and

(B) any person purchasing, receiving, or otherwise acquiring any such substance shall—

(i) produce a photo identification showing the date of birth of such person; and

(ii) sign a written log or receipt showing—

(I) the date of the transaction;

(II) the name of the person; and

(III) the name and the amount of the substance purchased, received, or otherwise acquired.

(3)(A) No person shall purchase, receive, or otherwise acquire more than 9 grams of the substance described in paragraph (6) of Schedule V of section 202 within any 30-day period.

(B) The limit described in subparagraph (A) shall not apply to any quantity of such substance dispensed under a valid prescription.

(4)(A) The Director of the Federal Drug Administration, by rule, may exempt a product from Schedule V of section 202 if the Director determines that the product has been formulated in such a way as to effectively prevent the conversion of the active substance.

(B) The Director of the Federal Drug Administration, upon the application of a manufacturer of a drug product, may exempt the product from Schedule V of section 202 if the Director determines that the product is not used in the illegal manufacture of methamphetamine or other controlled dangerous substances.

(C) The Director of the Federal Drug Administration, by rule, may authorize the sale of the substance described in paragraph (6) of Schedule V of section 202 by persons other than licensed pharmacists or licensed pharmacy technicians if—

(i) the Director finds evidence that the absence of a pharmacy creates a hardship for a community; and

(ii) the authorized personnel follow the procedures set forth in this Act.

TITLE II—EDUCATION, PREVENTION, AND TREATMENT

SEC. 201. GRANTS FOR SERVICES FOR CHILDREN AT RISK FOR MARIJUANA ABUSERS.

Section 519 of the Public Health Service Act (42 U.S.C. 290bb–25) is amended—

(1) in subsection (b), by inserting after paragraph (8) the following:

“(9) Development of drug endangered children rapid response teams that will intervene on behalf of children exposed to methamphetamine abuse in rural areas.

(10) providing direct technical assistance to, and in consultation with, the Director of the National Institute on Drug Abuse or its designee, to establish methamphetamine treatment programs in rural areas.

(b) Purpose.

For the purpose of this section, in the case of a grant or enters into contracts with, public or private, nonprofit entities to establish a research, training, and technical assistance center to carry out the activities described in subsection (d).

(c) Application.

(1) IN GENERAL. —Any State seeking a grant under this section shall—

(i) engage in research and evaluation of the effectiveness of treatment modalities for the treatment of methamphetamine abuse;

(ii) disseminate information to public and private entities on effective treatments for methamphetamine abuse;

(iii) provide direct technical assistance to States, political subdivisions of States, and other public or private entities to improve the treatment of methamphetamine abuse; and

(iv) provide training on the effects of methamphetamine use and on effective ways of treating methamphetamine abuse to substance abuse treatment professionals and community leaders.

(d) Reports.

Each grantees or contractor under this section shall annually submit a report to the Administrator that contains—

(I) a description of the previous year’s activities of the center established under this section;

(II) the number of individuals directly served by such center;

(III) the amount of funds spent on methamphetamine abuse in rural areas.

(e) Limitation.

The limit described in subparagraph (A) shall not apply to any quantity of such substance dispensed under a valid prescription.

(f) Authorization of Appropriations.

There are authorized to be appropriated $3,000,000 for each of fiscal years 2006 and 2007 to carry out the provisions of this section.

SEC. 202. LOCAL GRANTS FOR TREATMENT OF METHAMPHETAMINE ABUSE AND RELATED CONDITIONS.

Subpart 1 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb et seq.) is amended—

(a) by redesignating section 514 that relates to methamphetamine and appears after section 514A as section 514B; and

(b) in section 514B, as redesignated—

(A) by amending subsection (a)(1) to read as follows:

“(1) GRANTS AUTHORIZED.—The Secretary may award grants to States, political subdivisions of States, American Indian Tribes, and private, nonprofit entities to provide treatment for methamphetamine abuse.

(B) by amending subsection (b) to read as follows:

“(B) PRIORITY FOR RURAL AREAS.—In awarding grants under subsection (a), the Secretary shall give priority to entities that will serve rural areas experiencing an increase in methamphetamine abuse.”;

(2) in subsection (d), by striking “2000” and all that follows and inserting “2005 and such sums as may be necessary for each of fiscal years 2006 through 2009”;

(3) by inserting after section 514B, as redesignated, the following:

“SEC. 514C. METHAMPHETAMINE RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE CENTER.

“(a) Program Authorized.—The Secretary, acting through the Administrator, and in consultation with the Director of the National Institutes of Health, shall award grants to, or enter into contracts with, public or private, nonprofit entities to establish a research, training, and technical assistance center to carry out the activities described in subsection (d).

“(b) Application.—A public or private, nonprofit entity seeking a grant or contract shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(c) Constancy.

(1) The limit described in subparagraph (A) shall not apply to any quantity of such substance dispensed under a valid prescription.

(2) The limit described in subparagraph (A) shall not apply to any quantity of such substance dispensed under a valid prescription.

(3) Authorized Activities.—Each center established under this section shall—

(I) engage in research and evaluation of the effectiveness of treatment modalities for the treatment of methamphetamine abuse;

(II) disseminate information to public and private entities on effective treatments for methamphetamine abuse;

(III) provide direct technical assistance to States, political subdivisions of States, and private entities to improve the treatment of methamphetamine abuse; and

(IV) provide training on the effects of methamphetamine use and on effective ways of treating methamphetamine abuse to substance abuse treatment professionals and community leaders.

(4) Reports.

Each grantee or contractor under this section shall annually submit a report to the Administrator that contains—

(I) a description of the previous year’s activities of the center established under this section;

(II) the number of individuals directly served by such center;

(III) the amount of funds spent on methamphetamine abuse in rural areas.


There are authorized to be appropriated $3,000,000 for each of fiscal years 2005 through 2007 to carry out the provisions of this section.

SEC. 203. METHAMPHETAMINE PRECURSOR MONITORING AND CONTROL PROGRAM.

(a) Grants Authorized.

—The Attorney General, acting through the Bureau of Justice Assistance, may award grants to States to establish methamphetamine precursor monitoring programs.

(b) Purpose.

—The purpose of the grant program established under this section is to—

(1) prevent the sale of methamphetamine precursors, such as pseudoephedrine, to individuals in quantities so large that the only reasonable purpose of the purchase would be to manufacture methamphetamine;

(2) educate businesses that legally sell methamphetamine precursors, such as pseudoephedrine, to balance the legitimate need for lawful access to medication with the risk that those substances may be used to manufacture methamphetamine; and

(3) recalculate existing prescription drug monitoring programs designed to track the sale of controlled substances to also track the sale of pseudoephedrine in any amount greater than 6 grams.

(c) Use of Grant Funds.

—Grant funds awarded to States under this section may be used to—

(1) implement a methamphetamine precursor monitoring program, including hiring personnel and purchasing computer hardware and software designed to monitor methamphetamine precursor purchases;

(2) expand existing methamphetamine precursor or prescription drug monitoring programs to accomplish the purposes described in subsection (b);

(3) pay for training and technical assistance for law enforcement personnel and employees of businesses that lawfully sell substances, which may be used as methamphetamine precursors;

(4) improve information sharing between adjacent States through enhanced connectivity; and

(5) make grants to subdivisions of the States in support of the implementation of methamphetamine precursor monitoring programs.

(d) Application.

—Any State seeking a grant under this section shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require.

(e) Authorization of Appropriations.

There are authorized to be appropriated $3,000,000 for each of the fiscal years 2006 and 2007 to carry out the provisions of this section.

By Mr. TALENT (for himself, Mr. WYDEN, Mr. COLEMAN, and Mr. CORZINE):

S. 104. A bill to amend the Internal Revenue Code of 1986 to provide tax-exempt financing of highway projects and rail-truck transfer facilities; to the Committee on Finance.

Mr. TALENT. Mr. President, 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. 104

Be it enacted by the Senate and House of Representa-"
“(1) QUALIFIED HIGHWAY FACILITIES.—For purposes of subsection (a)(15), the term ‘qualified highway facilities’ means—
“(A) any surface transportation project which receives Federal assistance under title 23, United States Code (as in effect on the date of the enactment of this subsection), or
“(B) any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under such title 23.
“(2) QUALIFIED FREIGHT TRANSFER FACILITIES.—For purposes of subsection (a)(16), the term ‘qualified surface freight transfer facilities’ means facilities for the transfer of freight from rail to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under either title 22 or title 49, United States Code (as in effect on the date of the enactment of this subsection).
“(3) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING FOR FACILITIES.—
“(A) IN GENERAL.—An issue shall not be treated as an issue described in subsection (a)(15) or (a)(16) if the aggregate face amount of bonds issued by any State pursuant thereto (when added to the aggregate face amount of bonds previously so issued) exceeds $15,000,000,000.

“(B) ALLOCATION BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation shall allocate the amount described in subparagraph (A) among eligible projects described in subsections (a)(15) and (a)(16) in such manner as the Secretary determines appropriate.

“(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking ‘‘(14), (15), or (16) of section 142(a), and‘‘ and inserting ‘‘(14), (15), or (16) of section 142(a), and‘‘.

“(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

By Mr. TALENT (for himself, Mr. SESSIONS, and Mr. DEMINT):

S. 105. A bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes;

S. 106. To provide Federal income tax credits for child care expenses for low-income families; and

S. 107. To authorize appropriations for the Departments of Labor, Health and Human Services, Education, and Related Agencies for fiscal year 2002 and for other purposes.

TITLE I—TANF

Sec. 101. Purposes.
Sec. 102. Family assistance grants.
Sec. 103. Promotion of family formation and healthy marriage.

Sec. 104. Supplemental grant for population increases in certain States.
Sec. 105. Bonus to reward employment achievement.
Sec. 106. Children’s health fund.
Sec. 107. Use of funds.
Sec. 108. Repeal of Federal loan for State welfare programs.
Sec. 109. Uniform system and family self-sufficiency plan requirements.
Sec. 110. Work participation requirements.
Sec. 111. Maintenance of effort.
Sec. 112. Performance improvement.
Sec. 113. Data collection and reporting.
Sec. 114. Direct funding and administration transfer facilities

TITLES VI—ABSTINENCE EDUCATION

Sec. 201. Sex education.
Sec. 203. Authorization of appropriations.
Sec. 204. Application and plan.
Sec. 205. Activities to improve the quality of demonstration projects.
Sec. 206. Report by Secretary.

TITLES VII—TRANSITIONAL MEDICAL ASSISTANCE

Sec. 301. Federal matching funds for limited enrollment.
Sec. 302. State option to pass through all Federal matching funds.
Sec. 303. Mandatory fee for successful child support enforcement.
Sec. 304. State option to pass through all Federal matching funds for limited enrollment.
Sec. 305. State option to pass through all Federal matching funds.

TITLES IX—EFFECTIVE DATE

Sec. 901. Effective date.

SEC. 3. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the amendment or repeal shall be considered to be made to a section or other provision of the Social Security Act.

SEC. 4. FINDINGS.

The Congress makes the following findings:

(1) The Temporary Assistance for Needy Families (TANF) Program established by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193) has succeeded in moving families from welfare to work and reducing child poverty.

(2) There has been a dramatic increase in the employment of current and former welfare recipients. The number of working recipients reached an all-time high in fiscal year 1999 and continued steady in fiscal years 2000 and 2001. In fiscal year 2003, 31.3 percent of adult recipients were counted as meeting the work participation requirements. All States but one met the overall participation rate standard in fiscal year 2003, as did the District of Columbia and Puerto Rico.

(3) Earnings for welfare recipients remaining on the rolls have also increased significantly, as have earnings of two-parent households. The increases have been particularly large for the bottom 2 income quintiles, that is, those women who are most likely to be former or present welfare recipients.

(4) Welfare dependency has plummeted. As measured by the percentage of families living below the poverty line, the number of welfare cases decreased by 75% from 1995 to 2005.

(5) The child poverty rate continued to decline between 1996 and 2003, falling 14 percent from 20.5 to 17.6 percent. Child poverty rates for African-American families with children have also fallen dramatically during the past 7 years.
(2) As a Nation, we have made substantial progress in reducing teen pregnancies and births, slowing increases in nonmarital childbearing, and improving child support collection by establishing comprehensive child support laws. (A) The birth rate to teenagers declined 30 percent from its high in 1991 to 2002. The 2002 teenage birth rate of 43.0 per 1,000 women aged 15–19 was the lowest recorded birth rate for teenagers.

(B) During the period from 1991 through 2001, teenage birth rates fell in all States and the District of Columbia, Puerto Rico, Guam, and the Virgin Islands. Declines also have spanned age, racial, and ethnic groups. There has been success in lowering the birth rate of teenagers and older teens. The birth rate for those 15–17 years of age has declined 40 percent since 1991, and the rate for those 18 and 19 has declined 23 percent. The rate for African American teens—until recently the highest—has declined the most—42 percent from 1991 through 2002.

(C) Since the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, child support collections within the child support enforcement system have grown every year, increasing from $12,000,000,000 in fiscal year 1996 to over $21,000,000,000 in fiscal year 2003. The number of paternities established or acknowledged in fiscal year 2003 (over 1,500,000) includes a more than 20 percent increase through 1996 compared to 1992–1993. The number of paternities established or acknowledged in fiscal year 2003 compared to 324,652 in 1996. Child support collections and paternity establishment programs to promote marriage and paternal involvement have been increased, and the resources in the TANF program, such as child care and activities to support work.

(B) Since the welfare reform effort began there has been a dramatic increase in work participation (including employment, training, and education) as people move toward the State’s participation rate. In fiscal year 2003, four jurisdictions failed to meet the overall work participation rates required by law, in an average month, only 41 percent of all families with an adult participated in work activities. The work requirement toward the State’s participation rate. In fiscal year 2003, four jurisdictions failed to meet the overall work participation rates required by law, in an average month, only 41 percent of all families with an adult participated in work activities.

(C) States are making policy choices and investment decisions best suited to the needs of their citizens.

(i) The exodus to working families, almost all States disregard a portion of a family’s earned income when determining benefit levels.

(ii) All States increased the limits on countable assets above the former Aid to Families with Dependent Children (AFDC) program. Every State has increased the vehicle allowance under AFDC limit for a family’s primary automobile.

(iii) States are experimenting with programs to promote marriage and paternal involvement. Many States use TANF, child support, or State funds to support community-based activities that encourage become more involved in their children’s lives or strengthen relationships between mothers and fathers.

4. However, despite this success, there is still much to do. Policies to support and promote more work, strengthen families, and enhance State flexibility are necessary to continue to build on the success of welfare reform.

(A) Significant numbers of welfare recipients are not engaged in employment-relevant activities. One-third of welfare recipients have met the overall work participation rates required by law, in an average month, only 41 percent of all families with an adult participated in work activities. The work requirement toward the State’s participation rate. In fiscal year 2003, four jurisdictions failed to meet the overall work participation rates required by law, in an average month, only 41 percent of all families with an adult participated in work activities.

(B) In 2002, 34 percent of all births in the U.S. were to unmarried women. And, with fewer teens entering marriage, the proportion of births to unmarried teens has increased dramatically (80 percent in 2002 versus 30 percent in 1970). The negative consequences of out-of-wedlock birth on the mother, the child, the family, and society are well documented. These include increased likelihood of welfare dependency, increased risks of poverty, poor cognitive development, child abuse and neglect, and teen parenthood, and decreased likelihood of having an intact marriage during adulthood.

(C) There has been a dramatic rise in cohabitation as marriages have declined. It is estimated that 40 percent of children are expected to live in a cohabiting-parent family at some point during their childhood. Children in single-parent households and cohabiting-parent households are at a significantly higher risk of child abuse than children in intact married families.

(D) Children who live apart from their biological fathers, on average, are more likely to be poor, experience educational, health, emotional, and psychological problems, be victims of child abuse, engage in criminal behavior, and become involved with the juvenile justice system than those who live with their married, biological mother and father. A child living with a single mother is nearly 5 times as likely to be poor as a child living in a married-couple family. In 2003, in married-couple families, the child poverty rate was 8.6 percent, and in households headed by a single mother the poverty rate was 41.7 percent.

(T) Therefore, it is the sense of the Congress that increasing success in moving families from welfare as well as in promoting healthy marriage and other means of improving child well-being, are very important Government interests and the policy contained in part A of title IV of the Social Security Act (as amended by this Act) is intended to serve those ends.

TITLE I—TANF

SEC. 101. PURPOSES. (a) Section 401(a) (42 U.S.C. 601(a)) is amended—


(2) by inserting ‘‘payable to the State for the fiscal year following the end of the period’’ after ‘‘payable to the Secretary for the fiscal year following the end of the period’’.

(b) STATE FAMILY ASSISTANCE GRANT.—Section 403(a)(1)(C) (42 U.S.C. 603(a)(1)(C)) is amended by striking ‘‘fiscal years 1996 through 2010’’.

(c) MATCHING GRANTS FOR THE TERRITORIES.—Section 1108(b)(2) is amended—

(1) by striking ‘‘1996 through 2003’’ and inserting ‘‘2006 through 2010’’.

SEC. 103. PROMOTION OF FAMILY FORMATION AND HEALTHY MARRIAGE.

(a) STATE PLANS.—Section 402(a)(1)(A) (42 U.S.C. 602(a)(1)(A)) is amended by adding at the end the following:

(vii) Encourage equitable treatment of married, 2-parent families under the programs referred to in clause (i). (b) HEALTHY MARRIAGE PROMOTION GRANTS; REPEAL OF BONUS FOR REDUCTION OF ILLEGETIMACY RATIO.—

(1) IN GENERAL.—Section 403(a)(2) (42 U.S.C. 603(a)(2)) is amended to read as follows:

(2) HEALTHY MARRIAGE PROMOTION GRANTS—

(a) AUTHORITY.—The Secretary shall award competitive grants to States, territories, and tribal organizations for not more than 50 percent of the cost of developing and implementing innovative programs to promote and support healthy, married, 2-parent families.

(b) HEALTHY MARRIAGE PROMOTION ACTIVITIES.—Funds provided under subparagraph (A) shall be used to support any of the following programs or activities:

(i) Public advertising campaigns on the value of marriage and the need to increase marital stability and health.

(ii) Education in high schools on the value of marriage, relationship skills, and budgeting.

(iii) Marriage education, marriage skills, and relationship skills programs, that may include parenting skills, financial management, conflict resolution, and job and career advancement, for non-married pregnant women and non-married expectant fathers.

(iv) Pre-marital education and marriage skills training for engaged couples and for couples or individuals interested in marriage.

(v) Marriage enhancement and marriage skills training programs for married couples.

(vi) Divorce reduction programs that teach relationship skills.

(vii) Marriage mentoring programs which use married couples as role models and mentors in at-risk communities.

(viii) Programs to reduce the disincentives to marriage in means-tested aid programs, if offered in conjunction with any activity described in this subparagraph.

(c) APPROPRIATION.—

(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for each of fiscal years 2005 through 2010 $100,000,000 for each of the programs referred to in this paragraph.

(2) EXTENDED AVAILABILITY OF FY2005 FUNDS.—Funds appropriated under clause (1) for fiscal year 2005 shall remain available to the Secretary through fiscal year 2006, for grants under this paragraph for fiscal year 2005.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) COUNTING OF SPENDING ON NON-ELIGIBLE FAMILIES TO PREVENT AND REDUCE INCIDENCE OF OUT-OF-WEDLOCK BIRTHS.—The following programs or activities referred to in section 9004(b) of title IV of the Social Security Act (42 U.S.C. 602) are not subject to the 2-parent requirements, most because they moved their 2-parent cases to separate State programs where they are not subject to a penalty for failing the 2-parent rates.

(B) Children who live apart from their biological fathers, on average, are more likely to be poor, experience educational, health, emotional, and psychological problems, be victims of child abuse, engage in criminal behavior, and become involved with the juvenile justice system than those who live with their married, biological mother and father. A child living with a single mother is nearly 5 times as likely to be poor as a child living in a married-couple family. In 2003, in married-couple families, the child poverty rate was 8.6 percent, and in households headed by a single mother the poverty rate was 41.7 percent.

(T) Therefore, it is the sense of the Congress that increasing success in moving families from welfare as well as in promoting healthy marriage and other means of improving child well-being, are very important Government interests and the policy contained in part A of title IV of the Social Security Act (as amended by this Act) is intended to serve those ends.

TITLE I—TANF

SEC. 101. PURPOSES. (a) Section 401(a) (42 U.S.C. 601(a)) is amended—


(2) by inserting ‘‘payable to the State for the fiscal year following the end of the period’’ after ‘‘payable to the Secretary for the fiscal year following the end of the period’’.

(b) STATE FAMILY ASSISTANCE GRANT.—Section 403(a)(1)(C) (42 U.S.C. 603(a)(1)(C)) is amended by striking ‘‘fiscal years 1996 through 2010’’.

(c) MATCHING GRANTS FOR THE TERRITORIES.—Section 1108(b)(2) is amended by striking ‘‘1996 through 2003’’ and inserting ‘‘2006 through 2010’’.
(a) GENERAL RULES.—Section 404(a)(2) (42 U.S.C. 604(a)(2)) is amended by striking “in any manner that” and inserting “for any purposes or activities for which”.

(b) TREATMENT OF INTERSTATE IMMIGRANT CASES.—

(1) STATE PLAN PROVISION.—Section 402(a)(1)(B) (42 U.S.C. 602(a)(1)(B)) is amended by striking clause (i) and redesignating clauses (ii) through (iv) as clauses (i) through (iv), respectively.

(2) USE OF FUNDS.—Section 404 (42 U.S.C. 604) is amended by striking subsection (c).

(c) INCREASE IN AMOUNT TRANSFERABLE TO CHILD CARE.—Section 404(d)(4)(B) (42 U.S.C. 604(d)(4)(B)) is amended by striking “30” and inserting “50”.

(d) INCREASE IN AMOUNT TRANSFERABLE TO TRUEX PROGRAMS.—Section 404(d)(2)(B) (42 U.S.C. 604(d)(2)(B)) is amended to read as follows:

“(A) AMOUNT;

(B) USE OF FUNDS.”

(2) AUTHORITY TO CARRYOVER OR RESERVE FUNDS.—

A State may use any amount designated to the State to provide any temporary child care services provided by the State to any child for which the State has been funded under section 412 during any year for which the State was designated as a TANF State with respect to that child and for which the State was designated as a TANF State with respect to any child for whom the State has been funded under section 412 during any year for which the State was designated as a TANF State with respect to that child.

(b) E FFECTION OF PROVISION.—

(1) Section 404 (42 U.S.C. 604) is amended by striking subsection (e).

(2) Section 412 (42 U.S.C. 612) is amended by striking clause (i) and redesignating clauses (ii) through (iv) as clauses (i) through (iv), respectively.

(c) CONSIDERATION OF CERTAIN CHILD CARE EXPENDITURES IN DETERMINING STATE COMPLIANCE WITH CONTINGENCY FUND MAINTENANCE OF EFFORT REQUIREMENT.—Section 404(a)(10) (42 U.S.C. 604(a)(10)) is amended—

(1) by striking “‘other than the expenditures described in clause (b)(ii) of that paragraph’” and inserting “under this part” and closing parenthesis; and

(2) by striking “excluding any amount expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994) for fiscal year 1994.”.

(3) by amending subparagraph (B)(i)(i) to read as follows:

“(I) the qualified State expenditures (as defined in section 404(a)(7)(B)(i)) for the fiscal year,”;

(4) by striking subparagraph (C).

(e) CONSIDERATION OF CERTAIN CHILDCARE EXPENDITURES IN DETERMINING STATE COMPLIANCE WITH CONTINGENCY FUND MAINTENANCE OF EFFORT REQUIREMENT.—Section 404(a)(10) (42 U.S.C. 604(a)(10)) is amended—

(1) by striking “‘other than the expenditures described in clause (b)(ii) of that paragraph’” and inserting “under this part” and closing parenthesis; and

(2) by striking “excluding any amount expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994) for fiscal year 1994.”.

(3) by amending subparagraph (B)(i)(i) to read as follows:

“(I) the qualified State expenditures (as defined in section 404(a)(7)(B)(i)) for the fiscal year,”; and

(4) by striking subparagraph (C).

(f) E FFECTION OF PROVISION.—

(1) IN GENERAL.—Section 409(a)(2) (42 U.S.C. 609(a)(2)) is amended by striking “in any manner that” and inserting “for any purposes or activities for which”.

(2) USE OF FUNDS.—

(A) GENERAL RULES.—Section 404(a)(2) (42 U.S.C. 604(a)(2)) is amended by striking “in any manner that” and inserting “for any purposes or activities for which”.

(B) TREATMENT OF INTERSTATE IMMIGRANT CASES.—

(1) STATE PLAN PROVISION.—Section 402(a)(1)(B) (42 U.S.C. 602(a)(1)(B)) is amended by striking clause (i) and redesignating clauses (ii) through (iv) as clauses (i) through (iv), respectively.

(2) USE OF FUNDS.—Section 404 (42 U.S.C. 604) is amended by striking subsection (c).

(c) INCREASE IN AMOUNT TRANSFERABLE TO CHILD CARE.—Section 404(d)(4)(B) (42 U.S.C. 604(d)(4)(B)) is amended by striking “30” and inserting “50”.

(d) INCREASE IN AMOUNT TRANSFERABLE TO TRUEX PROGRAMS.—Section 404(d)(2)(B) (42 U.S.C. 604(d)(2)(B)) is amended to read as follows:

“(A) AMOUNT;

(B) USE OF FUNDS.”

(2) AUTHORITY TO CARRYOVER OR RESERVE FUNDS.—

A State may use any amount designated to the State to provide any temporary child care services provided by the State to any child for which the State has been funded under section 412 during any year for which the State was designated as a TANF State with respect to that child.

(b) E FFECTION OF PROVISION.—

(1) Section 404 (42 U.S.C. 604) is amended by striking subsection (e).

(2) Section 412 (42 U.S.C. 612) is amended by striking subsection (f) and redesignating subsections (g) through (i) as subsections (f) through (h), respectively.

(3) Section 110(a)(2) (42 U.S.C. 1308(a)(2)) is amended by striking “406.”

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SEC. 109. UNIVERSAL ENGAGEMENT AND FAMILY SELF-SUFFICIENCY PLAN REQUIREMENTS.

(a) Modification of State Plan Requirements.—Section 402(a)(1)(A) (42 U.S.C. 602(a)(1)(A)) is amended by striking paragraphs (i) and (ii) and inserting the following:

"(ii) Require a parent or caretaker receiving assistance under the program to engage in work or work-related activities (as defined by the State), consistent with section 407(e)(2).

(iii) Require families receiving assistance under the program to engage in activities in accordance with family self-sufficiency plans developed pursuant to section 408(b)."

(b) Establishment of Family Self-Sufficiency Plans.—

(1) General.—Section 408(b) (42 U.S.C. 608(b)) is amended to read as follows:

"(b) FAMILY SELF-SUFFICIENCY PLANS.—

"(1) In general.—A State to which a grant is made under section 403 shall—

(A) assess, in the manner deemed appropriate by the State, the skills, prior work experience, and employability of each work-eligible individual (as defined in section 407(b)(2)(C)) receiving assistance under the State plan, under this part.

(B) establish for each family that includes such an individual, in consultation as the State deems appropriate with the individual, a self-sufficiency plan that specifies appropriate activities described in the State plan submitted pursuant to section 402, including direct work activities as appropriate designed to assist the family in achieving their maximum degree of self-sufficiency, and that provides for the ongoing participation of the individual in the activities.

(C) require, at a minimum, each such individual to participate in activities in accordance with the self-sufficiency plan; and

(D) upon such a review, advise the self-sufficiency plan and activities as the State deems appropriate.

(2) Implementation.—The State shall comply with paragraph (1) with respect to a family—

(A) in the case of a family that, as of October 1, 2005, is not receiving assistance from the State, if the child has not attained 12 months of age, not later than 60 days after the family first receives assistance on the basis of the most recent application for the assistance; or

(B) a family that, as of such date, is receiving assistance, not later than 12 months after the date of enactment of this subsection.

(3) State Discretion.—A State shall have sole discretion, consistent with section 407, to define and design activities for families for purposes of this subsection, to develop methods of monitoring and reviewing progress pursuant to this subsection, and to make modifications to the plan as the State deems appropriate to assist the individual in increasing their degree of self-sufficiency.

(4) Rule of Interpretation.—Nothing in this part shall preclude a State from requiring participation in work and any other activities appropriate for helping families achieve self-sufficiency and improving child well-being.

(5) Penalties for Failure to Establish Family Self-Sufficiency Plan.—Section 406(a)(3) (42 U.S.C. 606(a)(3)) is amended—

(A) in the paragraph heading, by inserting "or establish family self-sufficiency plan after paragraphs (A) and (B) in subparagraph (A), by inserting "or 408(b)" after "407(a)".

SEC. 110. WORK PARTICIPATION REQUIREMENTS.

(a) Elimination of Separate Participation Rate Requirements for 2-Parent Families.—

(1) Section 407 (42 U.S.C. 607) is amended in each of subsections (a) and (b) by striking paragraph (2).

(2) Section 407(b)(4) (42 U.S.C. 607(b)(4)) is amended by striking subparagraphs (1)(B) and (2)(B) and inserting "paragraph (1)(B)"

(3) Section 407(c)(1) (42 U.S.C. 607(c)(1)) is amended by striking subparagraph (B).

(4) Section 407(c)(2)(D) (42 U.S.C. 607(c)(2)(D)) is amended by striking "paragraphs (1)(B) and (2)(B) of subsection (b)" and inserting "paragraph (b) of subsection (b)"

(b) Work Participation Requirements.—

(1) Section 407 (42 U.S.C. 607) is amended by striking all that precedes subsection (b)(3) and inserting the following:

"SEC. 407. WORK PARTICIPATION REQUIREMENTS.

"(a) Participation Rate Requirements.—

"(1) In general.—Subject to the succeeding provisions of this section, a State to which a grant is made under section 402 for a fiscal year shall achieve a minimum participation rate equal to not less than—

"(A) 50 percent for fiscal year 2006;

"(B) 55 percent for fiscal year 2007;

"(C) 60 percent for fiscal year 2008; and

"(D) 65 percent for fiscal year 2009 and each succeeding fiscal year;

"(2) Minimum Participation Rate Floor.—

(A) In general.—A State to which a grant is made under section 402 for a fiscal year shall achieve a minimum participation rate floor calculated in accordance with subparagraph (B), that is not less than—

"(i) 10 percent for fiscal year 2006;

"(ii) 20 percent for fiscal year 2007;

"(iii) 30 percent for fiscal year 2008;

"(iv) 40 percent for fiscal year 2009; and

"(v) 55 percent for fiscal year 2010 and each succeeding fiscal year.

(B) Calculation of Participation Rates for Determining Compliance with Minimum Participation Rate Floor.—

(i) In general.—For purposes of determining compliance with subparagraph (A), the provisions of subsection (b) shall apply with respect to the participation rate of a State for a fiscal year except as provided in clauses (ii) and (iii).

(ii) Special rules.—For purposes of this paragraph—

(I) a reduction under subsection (b)(3) shall not be applied with respect to a State for a fiscal year to the extent it would reduce the participation rate of the State is otherwise required to meet below the level specified in subparagraph (A) for such fiscal year; and

(II) the participation rate determined under paragraphs (1) and (2) of subsection (b) for a State for a fiscal year may not be increased as provided in subsection (b)(4) if the State's participation rate determined for the fiscal year in paragraph (1) is below the level specified for such fiscal year in subparagraph (A); and

(iii) the options to exclude certain families for purposes of determining monthly participation rates provided in subsection (b)(2) shall not apply.

"(iii) Definition of Assistance.—For purposes of determining monthly assistance in subsection (b) shall be deemed to mean assistance to a family that—

(I) meets the definition of that term in section 402;

(II) is provided—

(aa) under the State program funded under this part; or

(bb) under a program funded with qualified State expenditures (as defined in section 409(a)(7)(B)(i));

(1) No work requirement imposed for families with an infant.—Nothing in this paragraph shall be construed as requiring a State to require a family in which the youngest child has not attained 12 months of age to engage in work or other activities.

(b) Calculation of Participation Rates.—

(1) Average Monthly Rate.—For purposes of subsection (a), the participation rate of a State for a fiscal year is the average of the participation rate for each month in the fiscal year.

(2) Monthly Participation Rates; Incorporation of 20-Hour Work Week Standard.—

(A) In general.—For purposes of paragraph (1), the participation rate of a State for a month is—

(i) the total number of countable hours (as defined in subsection (c)) with respect to the counted families for the State for the month; divided by

(ii) 160 multiplied by the number of counted families for the State for the month.

(B) Counted Families Defined.—

(i) In general.—In subparagraph (A), the term "counted family" means, with respect to a State and a month, a family that includes a work-eligible individual and that receives assistance in the month under the State program funded under this part, subject to clause (ii).

(ii) State option to exclude certain families.—At the option of a State, the term "counted family" shall include a family in the first month for which the family receives assistance from a State program funded under this part on the basis of the most recent application for such assistance; or

(iii) on a case-by-case basis, a family in which the youngest child has not attained 12 months of age.

(B) State option to include individuals receiving assistance under a tribal family assistance plan or tribal work program.—At the option of a State, the term "counted family" may include families in the State that are receiving assistance under a tribal family assistance plan approved under section 412 or under a tribal work program to which funds are provided under this part.

(C) Work-eligible individual defined.—In this section, the term "work-eligible individual" means an individual who—

(i) is married or a single head of household; and

(ii) whose needs are (or, but for sanctions under part D, would be) included in determining the amount of cash assistance to be provided to the family under the State program funded under this part.

(2) Recalibration of Cashing Reduction Credit.—

(1) In general.—Section 407(b)(3)(A)(ii) (42 U.S.C. 607(b)(3)(A)(ii)) is amended to read as follows:

"(ii) the average monthly number of families that received assistance under the State program funded under this part during the base year;".

(2) Conforming Amendment.—Section 407(b)(3)(B) (42 U.S.C. 607(b)(3)(B)) is amended by striking "and eligibility criteria" and all that follows through the end of paragraph and inserting "and the eligibility criteria in effect during the then applicable base year".

(3) Base Year Defined.—Section 407(b)(3) (42 U.S.C. 607(b)(3)) is amended by adding at the end the following:

"(C) Base year defined.—In this paragraph, the term "base year" means, with respect to a fiscal year—

(i) if the fiscal year is fiscal year 2006, fiscal year 2016;
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‘‘(ii) if the fiscal year is fiscal year 2007,
fiscal year 1998;
‘‘(iii) if the fiscal year is fiscal year 2008,
fiscal year 2001; or
‘‘(iv) if the fiscal year is fiscal year 2009 or
any succeeding fiscal year, the then 4th preceding fiscal year.’’.
(d) SUPERACHIEVER CREDIT.—Section 407(b)
(42 U.S.C. 607(b)) is amended by striking
paragraphs (4) and (5) and inserting the following:
‘‘(4) SUPERACHIEVER CREDIT.—
‘‘(A) IN GENERAL.—The participation rate,
determined under paragraphs (1) and (2) of
this subsection, of a superachiever State for
a fiscal year shall be increased by the lesser
of—
‘‘(i) the amount (if any) of the superachiever credit applicable to the State; or
‘‘(ii) the number of percentage points (if
any) by which the minimum participation
rate required by subsection (a) for the fiscal
year exceeds 50 percent.
‘‘(B) SUPERACHIEVER STATE.—For purposes
of subparagraph (A), a State is a superachiever State if the State caseload for fiscal
year 2001 has declined by at least 60 percent
from the State caseload for fiscal year 1995.
‘‘(C) AMOUNT OF CREDIT.—The superachiever credit applicable to a State is the
number of percentage points (if any) by
which the decline referred to in subparagraph (B) exceeds 60 percent.
‘‘(D) DEFINITIONS.—In this paragraph:
‘‘(i) STATE CASELOAD FOR FISCAL YEAR
2001.—The term ‘State caseload for fiscal year
2001’ means the average monthly number of
families that received assistance during fiscal year 2001 under the State program funded
under this part.
‘‘(ii) STATE CASELOAD FOR FISCAL YEAR
1995.—The term ‘State caseload for fiscal year
1995’ means the average monthly number of
families that received aid under the State
plan approved under part A (as in effect on
September 30, 1995) during fiscal year 1995.’’.
(e) COUNTABLE HOURS.—Section 407 of such
Act (42 U.S.C. 607) is amended by striking
subsections (c) and (d) and inserting the following:
‘‘(c) COUNTABLE HOURS.—
‘‘(1) DEFINITION.—In subsection (b)(2), the
term ‘countable hours’ means, with respect
to a family for a month, the total number of
hours in the month in which any member of
the family who is a work-eligible individual
is engaged in a direct work activity or other
activities specified by the State (excluding
an activity that does not address a purpose
specified in section 401(a)), subject to the
other provisions of this subsection.
‘‘(2) LIMITATIONS.—Subject to such regulations as the Secretary may prescribe:
‘‘(A) MINIMUM WEEKLY AVERAGE OF 24 HOURS
OF DIRECT WORK ACTIVITIES REQUIRED.—If the
work-eligible individuals in a family are engaged in a direct work activity for an average total of fewer than 24 hours per week in
a month, then the number of countable
hours with respect to the family for the
month shall be zero.
‘‘(B) MAXIMUM WEEKLY AVERAGE OF 16
HOURS OF OTHER ACTIVITIES.—An average of
not more than 16 hours per week of activities
specified by the State (subject to the exclusion described in paragraph (1)) may be considered countable hours in a month with respect to a family.
‘‘(3) SPECIAL RULES.—For purposes of paragraph (1):
‘‘(A) PARTICIPATION IN QUALIFIED ACTIVITIES.—
‘‘(i) IN GENERAL.—If, with the approval of
the State, the work-eligible individuals in a
family are engaged in 1 or more qualified activities for an average total of at least 24
hours per week in a month, then all such engagement in the month shall be considered

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engagement in a direct work activity, subject to clause (iii).
‘‘(ii) QUALIFIED ACTIVITY DEFINED.—The
term ‘qualified activity’ means an activity
specified by the State (subject to the exclusion described in paragraph (1)) that meets
such standards and criteria as the State may
specify, including—
‘‘(I) substance abuse counseling or treatment;
‘‘(II) rehabilitation treatment and services;
‘‘(III) work-related education or training
directed at enabling the family member to
work;
‘‘(IV) job search or job readiness assistance; and
‘‘(V) any other activity that addresses a
purpose specified in section 401(a).
‘‘(iii) LIMITATION.—
‘‘(I) IN GENERAL.—Except as provided in
subclause (II), clause (i) shall not apply to a
family for more than 3 months in any period
of 24 consecutive months.
‘‘(II) SPECIAL RULE APPLICABLE TO EDUCATION AND TRAINING.—A State may, on a
case-by-case basis, apply clause (i) to a
work-eligible individual so that participation by the individual in education or training, if needed to permit the individual to
complete a certificate program or other
work-related education or training directed
at enabling the individual to fill a known job
need in a local area, may be considered
countable hours with respect to the family of
the individual for not more than 4 months in
any period of 24 consecutive months.
‘‘(B) SCHOOL ATTENDANCE BY TEEN HEAD OF
HOUSEHOLD.—The work-eligible members of a
family shall be considered to be engaged in a
direct work activity for an average of 40
hours per week in a month if the family includes an individual who is married, or is a
single head of household, who has not attained 20 years of age, and the individual—
‘‘(i) maintains satisfactory attendance at
secondary school or the equivalent in the
month; or
‘‘(ii) participates in education directly related to employment for an average of at
least 20 hours per week in the month.
‘‘(d) DIRECT WORK ACTIVITY.—In this section, the term ‘direct work activity’ means—
‘‘(1) unsubsidized employment;
‘‘(2) subsidized private sector employment;
‘‘(3) subsidized public sector employment;
‘‘(4) on-the-job training;
‘‘(5) supervised work experience; or
‘‘(6) supervised community service.’’.
(f) PENALTIES AGAINST INDIVIDUALS.—Section 407(e)(1) (42 U.S.C. 607(e)(1)) is amended
to read as follows:
‘‘(1) REDUCTION OR TERMINATION OF ASSISTANCE.—
‘‘(A) IN GENERAL.—Except as provided in
paragraph (2), if an individual in a family receiving assistance under a State program
funded under this part fails to engage in activities required in accordance with this section, or other activities required by the
State under the program, and the family
does not otherwise engage in activities in accordance with the self-sufficiency plan established for the family pursuant to section
408(b), the State shall—
‘‘(i) if the failure is partial or persists for
not more than 1 month—
‘‘(I) reduce the amount of assistance otherwise payable to the family pro rata (or more,
at the option of the State) with respect to
any period during a month in which the failure occurs; or
‘‘(II) terminate all assistance to the family, subject to such good cause exceptions as
the State may establish; or
‘‘(ii) if the failure is total and persists for
at least 2 consecutive months, terminate all
cash payments to the family including qualified State expenditures (as defined in section

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409(a)(7)(B)(i)) for at least 1 month and thereafter until the State determines that the individual has resumed full participation in
the activities, subject to such good cause exceptions as the State may establish.
‘‘(B) SPECIAL RULE.—
‘‘(i) IN GENERAL.—In the event of a conflict
between a requirement of clause (i)(II) or (ii)
of subparagraph (A) and a requirement of a
State constitution, or of a State statute
that, before 1966, obligated local government
to provide assistance to needy parents and
children, the State constitutional or statutory requirement shall control.
‘‘(ii) LIMITATION.—Clause (i) of this subparagraph shall not apply after the 1-year
period that begins with the date of the enactment of this subparagraph.’’.
(g) CONFORMING AMENDMENTS.—
(1) Section 407(f) (42 U.S.C. 607(f)) is amended in each of paragraphs (1) and (2) by striking ‘‘work activity described in subsection
(d)’’ and inserting ‘‘direct work activity’’.
(2) The heading of section 409(a)(14) (42
U.S.C. 609(a)(14)) is amended by inserting ‘‘or
refusing to engage in activities under a family self-sufficiency plan’’ after ‘‘work’’.
SEC. 111. MAINTENANCE OF EFFORT.

(a) IN GENERAL.—Section 409(a)(7) (42
U.S.C. 609(a)(7)) is amended—
(1) in subparagraph (A), by striking ‘‘fiscal
or 2006’’ and inserting ‘‘fiscal year 2006, 2007,
2008, 2009, 2010, or 2011’’; and
(2) in subparagraph (B)(ii)—
(A) by inserting ‘‘preceding’’ before ‘‘fiscal
year’’; and
(B) by striking ‘‘for fiscal years 1997
through 2005,’’.
SPENDING
ON
PROMOTING
(b)
STATE
HEALTHY MARRIAGE.—
(1) IN GENERAL.—Section 404 (42 U.S.C. 604)
is amended by adding at the end the following:
‘‘(l) MARRIAGE PROMOTION.—A State, territory, or tribal organization to which a grant
is made under section 403(a)(2) may use a
grant made to the State, territory, or tribal
organization under any other provision of
section 403 for marriage promotion activities, and the amount of any such grant so
used shall be considered State funds for purposes of section 403(a)(2).’’.
(2) FEDERAL TANF FUNDS USED FOR MARRIAGE PROMOTION DISREGARDED FOR PURPOSES
OF MAINTENANCE OF EFFORT REQUIREMENT.—

Section
409(a)(7)(B)(i)
(42
U.S.C.
609(a)(7)(B)(i)), as amended by section 103(c)
of this Act, is amended by adding at the end
the following:
‘‘(VI) EXCLUSION OF FEDERAL TANF FUNDS
USED FOR MARRIAGE PROMOTION ACTIVITIES.—
Such term does not include the amount of
any grant made to the State under section
403 that is expended for a marriage promotion activity.’’.
SEC. 112. PERFORMANCE IMPROVEMENT.

(a) STATE PLANS.—Section 402(a) (42 U.S.C.
602(a)) is amended—
(1) in paragraph (1)—
(A) in subparagraph (A)—
(i) by redesignating clause (vi) and clause
(vii) (as added by section 103(a) of this Act)
as clauses (vii) and (viii), respectively; and
(ii) by striking clause (v) and inserting the
following:
‘‘(v) The document shall—
‘‘(I) describe how the State will pursue
ending dependence of needy families on government benefits and reducing poverty by
promoting job preparation and work;
‘‘(II) describe how the State will encourage
the formation and maintenance of healthy 2parent married families, encourage responsible fatherhood, and prevent and reduce the
incidence of out-of-wedlock pregnancies;

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(III) include specific, numerical, and measurable performance objectives for accomplishing subclauses (I) and (II), and with respect to subsection (I), include objectives consisting of performance criteria used by the Secretary in establishing performance targets under section 403(a)(4)(B) if available; and

(IV) describe the methodology that the State may use to measure State performance in relation to each such objective.

(vi) Describe any strategies and programs the State may be undertaking to address—

(I) employment retention and advanced placement for recipients of assistance under the program, including placement into high-demand jobs, and whether the jobs are identified using labor market information;

(II) efforts to reduce teen pregnancy;

(III) services for struggling and non-compliant families, and for clients with special problems; and

(IV) program integration, including the extent to which employment and training services under the program are provided through the One-Stop delivery system created under the Workforce Investment Act of 1998, and the extent to which former recipients of such assistance have access to additional employment or training services funded through such Act.

(b) In subparagraph (B), by striking clause (iii) (as so redesignated by section 107(b)(1) of this Act) and inserting—

(III) services for struggling and non-compliant families, and for clients with special problems; and

(IV) program integration, including the extent to which employment and training services under the program are provided through the One-Stop delivery system created under the Workforce Investment Act of 1998, and the extent to which former recipients of such assistance have access to additional employment or training services funded through such Act.

(c) The document shall describe strategies and programs the State is undertaking to engage religious organizations in the provision of services provided under this part, and efforts related to section 104 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(d) The document shall describe strategies to improve program management and performance.

(2) in paragraph (4), by inserting “and tribal” after “local”;

(b) Consultation with State Regarding Plan and Design of Tribal Programs.—Section 412(b)(1) (42 U.S.C. 612(b)(1)) is amended by—

(1) by striking “and” at the end of subparagraph (F) and inserting “; and”;

(2) by striking the period at the end of subparsaph (F) and inserting “; and”;

(3) by adding at the end—

(G) provides that the State in which the facility is located has been consulted regarding the plan and its design.

(c) Performance Measures.—Section 413 (42 U.S.C. 613) is amended by adding at the end the following:

“(k) Performance Improvement.—The Secretary, in consultation with the States, shall employ uniform performance measures designed to assess the degree of effectiveness, and the degree of improvement, of State programs funded under this part in accomplishing purposes of this part.

(d) Annual Ranking of States.—Section 413(d)(1) (42 U.S.C. 613(d)(1)) is amended by striking “and inserting “private sector jobs,” the success of the recipients in retaining employment, the ability of the recipients to increase their wage, and the number of individuals receiving assistance in each eligible State shall submit to the Secretary a report on the number of families and total number of individuals receiving assistance in the first fiscal year under the State program funded under this part.

(4) Annual Report on Performance Improvement.—Not later than 90 days after the fiscal year 2007, each eligible State shall submit to the Secretary a report on the performance improvement during the preceding fiscal year, and determine what additional actions may be appropriate to help prevent and correct the problems referred to in paragraph (1), achieve the program purpose, and the program eligibility criteria, the sources of program funding, the number of program beneficiaries, sanction policies, and any program work requirements.

(e) Monthly Reports on Caseload.—Not later than 3 months after the end of each fiscal year that begins 1 year or more after the enactment of this subsection, each eligible State shall submit to the Secretary a report on the number of families and total number of individuals receiving assistance in the first fiscal year under the State program funded under this part.

(f) Annual Reports to Congress by the Secretary.—Section 411(e), as so redesignated by subsection (b), is amended by—

(1) in the matter preceding paragraph (1), by striking “and each fiscal year thereafter” and inserting “and by July 1 of each fiscal year thereafter”; and

(2) in paragraph (2), by striking “families applying for assistance,” and by striking the last comma; and

(3) in paragraph (3), by inserting “and other programs funded with qualified State expenditures” after the period.

(h) Increased Analysis of State Single Audit Reports.—Section 411 (42 U.S.C. 611) is amended by adding at the end the following:

“(d) Increased Analysis of State Single Audit Reports.—

(1) In General.—Within 3 months after a State submits to the Secretary a report pursuant to section 7502(a)(1)(A) of title 31, United States Code, the Secretary shall analyze the report for the purpose of identifying and correcting problems related to the oversight by the State of nongovernmental entities with respect to contracts entered into by such entities with the State program funded under this part, and determine what additional actions may be appropriate to help prevent and correct the problems referred to in paragraph (1), achieve the program purpose, and the program eligibility criteria, the sources of program funding, the number of program beneficiaries, sanction policies, and any program work requirements.”
SEC. 114. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES. 


SEC. 115. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

(a) Secretary’s Funds for Research, Demonstrations, and Technical Assistance.—

(1) In general.—Section 413 (42 U.S.C. 613), as amended by section 112(c) of this Act, is further amended by adding at the end the following:

“(1) FUNDING FOR RESEARCH, DEMONSTRATIONS, AND TECHNICAL ASSISTANCE.—

“(1) APPROPRIATION.—

“(A) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $102,000,000 for each of fiscal years 2005 through 2010, which shall be available to the Secretary for the purpose of conducting and supporting research, demonstrations, and evaluation projects by public or private entities, and providing technical assistance to Indian tribal organizations, and such other entities as the Secretary may specify that are receiving a grant under this part, which shall be expended primarily on activities described in section 409(a)(2)(B), and which shall be in addition to any other funds made available under this part.

“(B) EXTENDED AVAILABILITY OF FY 2005 FUNDS.—Funds appropriated under this paragraph for fiscal year 2005 shall remain available to the Secretary through fiscal year 2006, for use in accordance with this paragraph for fiscal year 2005.

“(2) SET ASIDE FOR DEMONSTRATION PROJECTS FOR COORDINATION OF CHILD WELFARE AND TANF SERVICES TO TRIBAL FAMILIES AT RISK OF CHILD ABUSE OR NEGLECT.—

“(A) IN GENERAL.—Of the amounts made available under paragraph (1) for a fiscal year, $2,000,000 shall be awarded on a competitive basis to fund demonstration projects designed to test the effectiveness of tribal governments or tribal consortia in coordinating the provision to tribal families at risk of child abuse or neglect of child welfare services and services under tribal programs funded under this part.

“(B) USE OF FUNDS.—A grant made to such a project shall be used—

“(i) to improve case management for families eligible for assistance from such a tribal program;

“(ii) for supportive services and assistance to tribal children in out-of-home placements and for the well-being of such children, including families who adopt such children; and

“(iii) for prevention services and assistance to tribal families at risk of child abuse or neglect.

“(C) REPORTS.—The Secretary may require a recipient of funds awarded under this paragraph to provide the Secretary with such information as the Secretary deems relevant to enable the Secretary to facilitate and oversee the administration of any project for which funds are provided under this paragraph.

“(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act.

(b) Funding of Studies and Demonstrations.—Section 413(b)(1) (42 U.S.C. 613(b)(1)) is amended by striking “1997 through 2002” and inserting “2006 through 2010”.

(c) Report on Enforcement of Certain Affidavits of Support and Sponsor Demand.—Not later than March 31, 2006, the Secretary of Health and Human Services, in consultation with the Department of the Interior, shall submit to the Congress a report on the enforcement of affidavits of support and sponsor demand as required by section 421, 422, and 432 of the Social Security Act and the Work Opportunity Reconciliation Act of 1996.

(d) Report on Coordination.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services and the Secretary of Labor shall jointly submit a report to the Congress describing, among other things, data elements, definitions, performance measures, and reporting requirements in the Workforce Investment Act of 1998 and part A of title IV of the Social Security Act, and, to the degree each Secretary deems appropriate, at the discretion of each Secretary, any other program administered by the respective Secretary, to allow greater coordination between the welfare and workforce development systems.

SEC. 116. STUDIES BY THE CENSUS BUREAU AND THE ABILITY OFFICE.

(a) Census Bureau Study.—


(b) Appropriation.—

“(1) IN GENERAL.—The Bureau of the Census shall implement or enhance a longitudinal survey of program participation, developed in collaboration with the Secretary and made available to interested parties, to allow for the assessment of the outcomes of continued welfare reform on the economic and child well-being of low-income families with children, including those who received assistance or services from a State program funded under this part, and, to the extent possible, shall include State representative samples. The content of the survey should include such information as may be necessary to examine the issues of out-of-wedlock childbearing, marriage, welfare dependency, and compliance with work requirements, the beginning and ending of spells of assistance, work earnings and employment stability, and the welfare of children.

“(2) APPROPRIATION.—Section 414(b) (42 U.S.C. 614(b)) is amended—

“(A) by striking “1996,” and all that follows through “2000” and inserting “2006 through 2010”; and

“(B) by adding at the end the following:

“Funds appropriated under this subsection shall remain available through fiscal year 2010 to carry out subsection (a).”.

(b) GAO Study.—

(1) In general.—The Comptroller General of the United States shall conduct a study to determine the combined effect of the phase-out rates for Federal programs and policies which provide support to low-income families and individuals as they move from welfare to work, at all earning levels up to $35,000 per year, for at least 5 States including Wisconsin and California, and any potential disincentives the combined phase-out rates create for families to achieve independence or to marry.

(2) Report.—Not later than 1 year after the date of the enactment of this subsection, the Comptroller General shall submit a report to Congress containing the results of the study conducted under this subsection and, as appropriate, any recommendations consistent with the results.

SEC. 117. DEFINITION OF ASSISTANCE.

(a) In General.—Section 419 (42 U.S.C. 619) is amended by adding at the end the following:

“(6) ASSISTANCE.—

“(A) IN GENERAL.—The term ‘assistance’ means payment, by cash, voucher, or other means, to or for an individual or family for the purpose of meeting a subsistence need of the individual or family (including clothing, shelter, and related items, but not including costs of transportation or child care).

“(B) EXCEPTION.—The term ‘assistance’ does not include a payment described in subparagraph (A) to or for an individual or family on a short-term, nonrecurring basis (as defined by the State or in accordance with regulations prescribed by the Secretary).”.

(b) Conforming Amendments.—

(1) Section 404(a)(1) (42 U.S.C. 604(a)(1)) is amended by striking “assistance” and inserting “aid”.

(2) Section 404(f) (42 U.S.C. 604(f)) is amended by striking “assistance” and inserting “benefits or services”.

(c) Section 408(a)(5)(B)(i) (42 U.S.C. 608(a)(5)(B)(i)) is amended in the heading by striking “assistance” and inserting “aid”.

(d) Section 413(j)(2)(A) (42 U.S.C. 613(j)(2)(A)) is amended by striking “section” and inserting “sections”.

Sec. 118. TECHNICAL CORRECTIONS.

(a) Section 409(c)(2) (42 U.S.C. 609(c)(2)) is amended by inserting a comma after “appropriate”.

(b) Section 411a(A)(1)(II)(III) (42 U.S.C. 611a(A)(1)(ii)(III)) is amended by striking “last year’s counterparts”.

(c) Section 413(j)(2)(A) (42 U.S.C. 613(j)(2)(A)) is amended by striking “section” and inserting “Sections”.

(d) Section 413 (42 U.S.C. 613) is amended by striking subsections (h) through (j) and subsections (k) and (l) (as added by sections 112(c) and 115(a) of this Act, respectively) as subsections (g) through (i) thereof.

(2) Each of the following provisions is amended by striking “413(j)” and inserting “413(j)(1)–(3)”: (A) Section 403(a)(5)(A)(1)(III) (42 U.S.C. 603(a)(5)(A)(1)(III)).

(B) Section 403a(5)(F) (42 U.S.C. 603(a)(5)(F)).

(C) Section 405(a)(5)(G)(II) (42 U.S.C. 605(a)(5)(G)(II)).

(D) Section 412a(3)(B)(IV) (42 U.S.C. 612a(3)(B)(IV)).

SEC. 119. FATHERHOOD PROGRAM.

(a) Short Title.—This section may be cited as the ‘Promotion and Support of Responsible Fatherhood and Healthy Marriage Act of 2006.’

(b) Fatherhood Program.—

(1) In general.—Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) is amended by adding at the end the following:

“SEC. 117. FATHERHOOD PROGRAM.

“(a) IN GENERAL.—Title IV of 42 U.S.C. 601–679b is amended by inserting after part B the following:

“PART C—FATHERHOOD PROGRAM

“SEC. 441. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that there is substantial evidence strongly indicating the urgent need to promote and support involved, committed, and responsible fatherhood, and to encourage and support healthy marriages between parents raising children, including data demonstrating the following:

“(1) In approximately 84 percent of cases where a parent is absent, that parent is the father.

“(2) If current trends continue, half of all children born today will be apart from one of their parents, usually their father, at some point before they turn 18.
‘(3) Where families (whether intact or with a parent absent) are living in poverty, a significant factor is the father’s lack of job skills.

‘(4) Committted and responsible fathering during infancy and early childhood contributes to the development of emotional security, curiosity, and math and verbal skills.

‘(i) Forty percent of children under age 18 (600,000 children total) live apart from their biological father.

‘(6) Forty percent of children under age 18 not living with their biological father had not lived with their father for even once in the 12 months, according to national survey data.

‘(b) PURPOSES.—The purposes of this part are

‘(1) To provide for projects and activities by public entities and by nonprofit community entities, including religious organizations, designed to test promising approaches to accomplishing the following objectives:

‘(A) Promoting responsible, caring, and effective parenting through counseling, mentoring, and parenting education, dissemination of educational materials and information on parenting skills, encouragement of positive father involvement, including the positive involvement of nonresident fathers, and other methods.

‘(B) Enhancing the abilities and commitment of unemployed or low-income fathers to provide material support for their families and to enable such fathers to have welfare programs and other assistance programs, by assisting them to take full advantage of education, job training, and job search programs, to improve work habits and work skills, to secure career advancement by activities such as outreach and information dissemination, coordination, as appropriate, with employment services and job training programs.

‘(C) Improving fathers’ ability to effectively manage family business affairs by means such as education, counseling, and mentoring in matters including household management, budgeting, banking, and handling of financial transactions, time management, and home maintenance.

‘(D) Encouraging and supporting healthy marriages, and married fatherhood through such activities as premarital education and counseling, relationship skills enhancement programs, including those designed to reduce child abuse and domestic violence, and dissemination of information about the benefits of marriage for both parents and children.

‘(2) Through the projects and activities described in paragraph (1), to improve outcomes for children with respect to measures such as healthy income and economic security, improved school performance, better health, improved emotional and behavioral stability and social adjustment, and family income and resources resources and child abuse and violence, and child abuse and neglect, and teen suicide.

‘(3) To evaluate the effectiveness of various approaches to disseminate findings concerning outcomes and other information in order to encourage and facilitate the replication of effective approaches to accomplishing those objectives.

‘SEC. 442. DEFINITIONS.

‘In this part, the terms “Indian tribe” and “tribal organization” have the meanings given them in subsections (e) and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act.

‘SEC. 443. COMPETITIVE GRANTS FOR SERVICE PROJECTS.

‘(a) IN GENERAL.—The Secretary may make grants for fiscal years 2006 through 2010 to public and nonprofit community entities, including religious organizations, and to Indian tribes, and shall distribute from non-Federal sources such sums as the Secretary may determine for demonstration service projects and activities designed to test the effectiveness of various approaches to accomplish the objectives specified in section 441(b)(1).

‘(b) ELIGIBILITY CRITERIA FOR FULL SERVICE GRANTS.—In order to be eligible for a grant under this section, except as specified in subsection (c), an applicant must submit an application to the Secretary containing the following:

‘(1) PROJECT DESCRIPTION.—A statement including:

‘(A) a description of the project and how it will be carried out, including the geographical area to be served and the number and characteristics of clients to be served, and how it will address each of the 4 objectives specified in section 441(b)(1); and

‘(B) a description of the methods to be used by the entity to assess the extent to which the project was successful in accomplishing its specific objectives and the general objectives specified in section 441(b)(1).

‘(2) EXPERIENCE AND QUALIFICATIONS.—A demonstration of ability to carry out the project, by means such as demonstration of experience in successfully carrying out projects of similar design and scope, and such other information as the Secretary may require, which demonstrates the entity’s capacity to carry out the project, including the entity’s ability to provide the non-Federal share of project resources.

‘(3) A DESCRIPTION OF STRATEGIES FOR ADDRESSING CHILDBEING ABUSE AND NEGLECT AND DOMESTIC VIOLENCE.—A description of how the entity will assess for the presence of, and intervene to resolve, domestic violence and child abuse and neglect, including how the entity will coordinate with State and local child protective service and domestic violence programs.

‘(4) A DESCRIPTION OF PROGRAMS RELATING TO SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A commitment to make available to each individual participating in the project education about and counseling for drugs, and about the health risks associated with abusing such substances, and information about diseases and conditions transmitted through substances of abuse, including HIV/AIDS, and to coordinate with providers of services addressing such problems, as appropriate.

‘(5) COORDINATION WITH SPECIFIED PROGRAMS.—An undertaking to coordinate, as appropriate, with State and local entities responsible for the programs under parts A, B, and D of title I of the Workforce Investment Act of 1998 (including the One-Stop delivery system), and such other programs as the Secretary may require.

‘(6) RECORDS, REPORTS, AND AUDITS.—An agreement to maintain such records, make such reports, and cooperate with such reviews or audits as the Secretary may determine for purposes of oversight of project activities and expenditures.

‘(7) SELF-INITIATED EVALUATION.—If the entity demonstrates to the Secretary’s satisfaction circumstances limiting the entity’s ability to secure non-Federal resources, the entity may demonstrate to the Secretary’s satisfaction circumstances limiting the entity’s ability to secure non-Federal resources in the case of a project under subsection (b); and

‘(B) up to 100 percent, in the case of a project under subsection (b).

‘(8) COOPERATION WITH SECRETARY’S OVERSIGHT AND EVALUATION.—An agreement to cooperate with the Secretary’s evaluation of projects assisted under this section, by including among the records and documents to be made available to the Secretary and control groups, if determined by the Secretary to be appropriate, and the Secretary to access: such reports, and cooperate with such reviews or audits as the Secretary may determine for purposes of oversight of project activities and expenditures.

‘(c) ELIGIBILITY CRITERIA FOR LIMITED PURPOSE GRANTS.—In order to be eligible for a grant under this section, except as specified in subsection (b), an applicant must submit an application to the Secretary containing the following:

‘(1) PROJECT DESCRIPTION.—A description of the project and how it will be carried out, including the number and characteristics of clients to be served, the proposed duration of the project, and how it will address at least 1 of the 4 objectives specified in section 441(b)(1).

‘(2) QUALIFICATIONS.—Such information as the Secretary may require as to the capacity of the entity to carry out the project, including any previous experience with similar activities.

‘(3) COORDINATION WITH RELATED PROGRAMS.—As required by the Secretary in appropriate cases, an undertaking to coordinate and cooperate with State and local entities responsible for activities relating to the objectives of the project including, as appropriate, jobs programs and programs serving children and families.

‘(4) RECORDS, REPORTS, AND AUDITS.—An agreement to maintain such records, make such reports, and cooperate with such reviews or audits as the Secretary may require, for purposes of oversight of project activities and expenditures.

‘(5) COOPERATION WITH SECRETARY’S OVERSIGHT AND EVALUATION.—An agreement to cooperate with the Secretary’s evaluation of projects assisted under this section, by including among the records and documents to be made available to the Secretary: such reports, and cooperate with such reviews or audits as the Secretary may determine for purposes of oversight of project activities and expenditures.

‘(6) RECORDS, REPORTS, AND AUDITS.—An agreement to maintain such records, make such reports, and cooperate with such reviews or audits as the Secretary may require, for purposes of oversight of project activities and expenditures.

‘(7) SELF-INITIATED EVALUATION.—If the entity demonstrates to the Secretary’s satisfaction circumstances limiting the entity’s ability to secure non-Federal resources, the entity may demonstrate to the Secretary’s satisfaction circumstances limiting the entity’s ability to secure non-Federal resources in the case of a project under subsection (b); and

‘(B) up to 100 percent, in the case of a project under subsection (b).

‘(8) COOPERATION WITH SECRETARY’S OVERSIGHT AND EVALUATION.—An agreement to cooperate with the Secretary’s evaluation of projects assisted under this section, by including among the records and documents to be made available to the Secretary: such reports, and cooperate with such reviews or audits as the Secretary may determine for purposes of oversight of project activities and expenditures.

‘(9) CONSIDERATIONS IN AWARDING GRANTS.—

‘(a) DIVERSITY OF PROJECTS.—In awarding grants under this section, the Secretary shall seek to achieve a balance among entities of differing sizes, entities in differing geographic areas, entities in urban and rural areas, entities of differing disadvantaged circumstances, entities of differing geographies, and entities of differing geographic areas.

‘(b) TYPES OF GRANTS.—In awarding grants under this section, the Secretary shall be encouraged to consider the following:

‘(B) an application to the Secretary containing an interest to the Secretary as determined by the Secretary to be appropriate, and the Secretary to access: such reports, and cooperate with such reviews or audits as the Secretary may determine for purposes of oversight of project activities and expenditures.

‘(B) up to 100 percent, in the case of a project under subsection (b).

‘(c) NON-FEDERAL SHARE.—The non-Federal share may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary shall consider the value to goods, services, and facilities contributed from non-Federal sources.

‘(d) CONSIDERATIONS IN AWARDING GRANTS.—

‘(1) DIVERSITY OF PROJECTS.—In awarding grants under this section, the Secretary shall take into account the diversity of projects, including:

‘(A) up to 80 percent (or up to 90 percent, if the entity demonstrates to the Secretary’s satisfaction circumstances limiting the entity’s ability to secure non-Federal resources, the entity may demonstrate to the Secretary’s satisfaction circumstances limiting the entity’s ability to secure non-Federal resources in the case of a project under subsection (b)); and

‘(B) up to 100 percent, in the case of a project under subsection (b).
(a) IN GENERAL.—The Secretary may make grants under this section for fiscal years 2006 through 2010 to eligible entities (as specified in subsection (b)) for a multicity, multistate demonstration projects demonstrating approaches to achieving the objectives specified in section 441(b)(1). One of the projects shall test the use of married couples to deliver program services.

(b) ELIGIBLE ENTITIES.—An entity eligible for a grant under this section must be a national nonprofit fatherhood promotion organization that meets the following requirements:

(1) EXPERIENCE WITH FATHERHOOD PROGRAMS.—The organization must have substantial experience in designing and successfully conducting programs that meet the purposes described in section 441.

(2) EXPERIENCE WITH MULTICITY, MULTISTATE PROGRAMS AND GOVERNMENT COORDINATION.—The organization must have experience in simultaneously conducting such programs in more than 1 major metropolitan area of the State and in facilitating such programs, where appropriate, with State and local government agencies and private, nonprofit agencies (including community groups and religious organizations), including State or local agencies responsible for child support enforcement and workforce development.

(3) APPLICATION REQUIREMENTS.—In order to be eligible for a grant under this section, an entity must submit to the Secretary an application that includes the following:

(1) QUALIFICATIONS.—

(A) ELIGIBLE ENTITY.—A demonstration that the entity meets the requirements of subsection (b).

(B) OTHER.—Such other information as the Secretary may find necessary for demonstrating the entity’s capacity to carry out the project, including the entity’s ability to provide the non-Federal share of project sources.

(2) PROJECT DESCRIPTION.—A description of and commitments concerning the project design, including, the following:

(A) 2006-THROUGH-2010 PROJECT DESCRIPTION (as required by paragraph (b)(1)(C) of such section). The project description shall include, to the maximum extent feasible, the random selection of individuals to participate in the project and for comparisons with appropriate control groups composed of individuals who have not participated in such projects; and

(iv) demonstrate that the project is designed to direct a majority of project resources to low-income fathers (but the project need not make services available on a means-tested basis).

(2) OVERSIGHT, EVALUATION, AND ADJUSTMENT COMPONENT.—An agreement that the entity—

(1) in consultation with the evaluator selected pursuant to section 445, and as required by the Secretary, will modify the project design, initially and (if necessary) subsequently throughout the duration of the project, in order to facilitate ongoing and final oversight and evaluation of project operation and outcomes (by means including, to the maximum extent feasible, random assignment of clients to service recipient and control groups to provide for midcourse adjustments in project design indicated by interim evaluations;

(i) will submit to the Secretary revised descriptions of the project design as modified in accordance with clause (i); and

(ii) will cooperate fully with the Secretary’s oversight and ongoing and final evaluation of the project, by means including affording the Secretary access to the project and to project-related records and documents, studying

(3) ADDRESSING CHILD ABUSE AND NEGLECT AND DOMESTIC VIOLENCE.—A description of how the entity will assess for the presence of, and intervene to resolve, domestic violence and child abuse and neglect, including how the entity will coordinate with State and local child protective service and domestic violence service providers.

(4) ADDRESSING CONCERNS RELATING TO SUBSTANCE ABUSE AND SEXUAL ACTIVITY.—A commitment to make available to each individual participating in the project education about alcohol, tobacco, and other drugs, and about the health risks associated with abusing such substances, and information about diseases and conditions transmitted through substance abuse and sexual contact, including HIV/AIDS, and to coordinate with providers of services addressing such problems, as appropriate.

(5) COORDINATION WITH SPECIFIED PROGRAMS.—An undertaking to coordinate, as appropriate, with State and local entities responsible for child support services, and other programs in more than 1 major metropolitan area of the State and in facilitating such programs, where appropriate, with State and local government agencies and private, nonprofit agencies (including community groups and religious organizations), including State or local agencies responsible for child support enforcement and workforce development.

(c) EVALUATION REPORTS.—An agreement to submit to the Secretary at least 1 evaluation report each year, including an annual report to be submitted by the entity and its evaluator.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—Grants for a project under this section for a fiscal year shall be available for up to 80 percent of the cost of such project in such fiscal year.

(2) NON-FEDERAL SHARE.—The non-Federal share may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to goods, services, and facilities contributed by non-Federal sources.

SEC. 445. EVALUATION.

(a) IN GENERAL.—The Secretary, directly or by contract or cooperative agreement, shall require the effective dissemination of services projects funded under sections 443 and 444 from the standpoint of the purposes specified in section 445(b)(1).

(b) EVALUATION METHODOLOGY.—Evaluations under this section shall—

(1) include, to the maximum extent feasible, random assignment of clients to service recipient and other appropriate comparisons of groups of individuals receiving and not receiving services;

(2) describe and measure the effectiveness of the projects in achieving their specific project goals; and

(3) describe and assess, as appropriate, the impact of such projects on marriage, parenting, domestic violence and child abuse and neglect, money management, employment and earnings, payment of child support, and child well-being, health, and education.

(c) EVALUATION REPORTS.—The Secretary shall publish the following reports on the results of the evaluation:

(1) An implementation evaluation report covering the progress made under the project and the activities under this part to be completed by 36 months after initiation of such activities.

(2) A final report on the evaluation to be completed by September 30, 2013.

SEC. 446. PROJECTS OF NATIONAL SIGNIFICANCE.

The Secretary is authorized, by grant, contract, or cooperative agreement, to carry out projects and activities of national significance relating to fatherhood promotion, including

(1) COLLECTION AND DISSEMINATION OF INFORMATION.—Assisting States, communities, and private entities, including religious organizations, in efforts to promote and support marriage and responsible fatherhood by collecting, evaluating, developing, and making available (through the Internet and by other means) to all interested persons the results of research regarding approaches to accomplishing the objectives specified in section 441(b)(1).

(2) MEDIA CAMPAIGN.—Developing, promoting, and distributing to interested States, local governments, public agencies, and private nonprofit organizations, including charitable and religious organizations, a media campaign that promotes and encourages involvement, committed, and responsible fatherhood and married fatherhood.

(3) TECHNICAL ASSISTANCE.—Providing technical assistance, including consultation and training, to public and private entities, including community organizations and faith-based organizations, a media campaign that promotes and encourages involvement, committed, and responsible fatherhood and married fatherhood.

(4) RESEARCH.—Conducting research related to the purposes of this part.

SEC. 447. NONDISCRIMINATION.

The projects and activities assisted under this part shall be available on the same basis to all eligible applicants able to benefit from such projects and activities, including married and unmarried fathers and custodial and noncustodial fathers, with particular attention to low-income fathers, and to mothers and expectant mothers on the same basis as to fathers.

SEC. 448. AUTHORIZATION OF APPROPRIATIONS; RESERVATION FOR CERTAIN PURPOSES.

(a) AUTHORIZATION.—There are authorized to be appropriated $20,000,000 for each of fiscal years 2006 through 2010 to carry out the provisions of this part.

(b) RESERVATION.—Of the amount appropriated under this section for each fiscal year, not more than 15 percent shall be available for the costs of the multicity, multistate demonstration projects under section 444, evaluations under section 445, and such other purposes of national significance under section 446.

(c) INAPPLICABILITY OF EFFECTIVE DATE PROVISIONS.—Section 116 shall not apply to the amendment made by subsection (a) of this section.

(2) CLERICAL AMENDMENT.—Section 117. Fatherhood program.

SEC. 120. STATE OPTION TO MAKE TANF PROGRAMS MANDATORY PARTNERS WITH ONE-STOP EMPLOYMENT TRAINING CENTERS.

Section 408 of the Social Security Act (42 U.S.C. 608) is amended by adding at the end the following:

(b) State Option to Make TANF Programs Mandatory Partners with One-Stop Employment Training Centers.

SEC. 608 of the Social Security Act (42 U.S.C. 608) is amended by adding at the end the following:

(b) State Option to Make TANF Programs Mandatory Partners with One-Stop Employment Training Centers.
TELLIUM—CHILD CARE

SEC. 201. GOALS.

This title may be cited as the “Caring for Children Act of 2005”.

SEC. 202. GOALS.

(a) Goals.—Section 658A(b) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858j) is amended—

(1) by striking “encourage” and inserting “assist”;

(2) by amending paragraph (4) to read as follows:

“(4) to assist States to provide child care to low-income parents;”;

(3) by redesignating paragraph (5) as paragraph (7); and

(b) CONFORMING AMENDMENT.—Section 658E(c)(3)(B) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858j) is amended by striking “through” and inserting “through”.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 658B(b) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858k) is amended—

(1) by striking “is” and inserting “are”;

(2) by striking “$1,000,000,000 for each of the fiscal years 1996 through 2002” and inserting “$2,100,000,000 for each of the fiscal years 2000, 2002, 2003, 2004, 2005, and 2006, $3,500,000,000 for fiscal year 2007, $2,700,000,000 for fiscal year 2008, $2,000,000,000 for fiscal year 2009, and $2,800,000,000 for fiscal year 2010”;

SEC. 204. APPLICATION AND PLAN.

Section 658B(c)(2) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858k) is amended—

(a) by amending subparagraph (D) to read as follows:

“(D) CONSUMER AND CHILD CARE PROVIDER EDUCATION INFORMATION.—Certify that the State will collect and disseminate, through resource and referral services and other means as determined by the State, to parents of eligible children, child care providers, and the general public, information regarding—

(i) the promotion of informed child care choices, including information about the quality and availability of child care services;

(ii) research and best practices on children’s development, including early cognitive development;

(iii) the availability of assistance to obtain child care services; and

(iv) other programs for which families that receive child care services for which financial assistance is provided under this subchapter may be eligible, including the food stamp program, the WIC program under section 17 of the Child Nutrition Act of 1966, the child and adult care center program under section 17 of the Richard B. Russell National School Lunch Act, and the Medicaid and SCHIP programs under titles XIX and XXI of the Social Security Act.”; and

(b) by inserting after subparagraph (H) the following:

“(I) COORDINATION WITH OTHER EARLY CHILD CARE AND CHILD DEVELOPMENT BLOCK GRANT ACT OF 1990 programs to expand accessibility to programs, and other early childhood education programs, to expand accessibility to the current early care and education delivery system.

(II) PUBLIC-PRIVATE PARTNERSHIPS.—Demonstrate how the State is coordinating child care services provided under this subchapter with Head Start, Early Ready to Learn Television, State pre-kindergarten programs, and other early childhood education programs to expand accessibility to programs, and to continuity of care and early education without displacing services provided by the current early care and education delivery system.

(J) CHILD CARE SERVICE QUALITY.—

(i) CERTIFICATION.—For each fiscal year after fiscal year 2006, certify that during the then preceding fiscal year the State was in compliance with section 656G and describe how funds were used to comply with such section during such preceding fiscal year.

(ii) STRATEGY.—For each fiscal year after fiscal year 2006, contain an outline of the strategy the State is using to implement such section for such fiscal year for which the State plan is submitted, to address the quality of child care and providers available to low-income parents from eligible child care providers, and include in such strategy—

(I) a statement specifying how the State will address the outcomes described in paragraphs (1), (2), and (3) of section 658G;

(II) a description of quantifiable, objective measures for evaluating the quality of child care services separately with respect to the activities listed in each of such paragraphs that the State will use to evaluate its progress in improving the quality of such child care services;

(III) a list of State-developed child care service quality targets for such fiscal year quantified on the basis of such measures; and

(IV) for each fiscal year after fiscal year 2006, a report on the progress made to achieve such targets during the then preceding fiscal year.

(III) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to require that the State apply measures for evaluating quality to specific types of child care providers.

(L) ACCESS TO CARE FOR CERTAIN POPULATIONS.—Demonstrate how the State is addressing the child care needs of parents eligible for the Old-Age, Survivors, and Disability Insurance who have children with special needs, work nontraditional hours, or require child care services for infants or toddlers.”.

SEC. 205. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

Section 658G of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858g) is amended to read as follows:

“SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE SERVICES.

“A State that receives funds to carry out this subchapter for a fiscal year, shall use not less than 6 percent of the amount of such funds for activities provided through resource and referral services or other means, that encourage the quality of child care services in the State available to low-income parents from eligible child care providers. Such activities include—

(1) activities that provide training, education, and other professional development activities to enhance the skills of the child care workforce, including training opportunities for caregivers in informal care settings;

(2) activities within child care settings to enhance early learning for young children, to promote early literacy, and to foster school readiness;

(3) initiatives to increase the retention and motivation of child care providers, including tiered reimbursement rates for providers that meet quality standards as defined by the State; or

(4) other activities deemed by the State to improve the quality of child care services provided in such State.”.

SEC. 206. REPORT BY SECRETARY.

Section 658L of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858l) is amended to read as follows:

“SEC. 658L. REPORT BY SECRETARY.

“(a) REPORT REQUIRED.—Not later than October 1, 2007, and biennially thereafter, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report that contains the following:

(1) A summary and analysis of the data and information provided to the Secretary in the State reports submitted under section 658L.

(2) Aggregated statistics on the supply of, demand for, and quality of child care, early education, and non-school-hours programs.

(3) An assessment, including recommendations, for the Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States.

(4) COLLECTION OF INFORMATION.—The Secretary may utilize the national child care data system available through resource and referral organizations at the local, State, and national level to collect the information required by subsection (a)(2).

SEC. 207. DEFINITIONS.

Section 658P(4)(B) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n) is amended by striking “85 percent of the State median income” and inserting “income above the median income published by the State, prioritized by need.”.

SEC. 208. ENTITLEMENT FUNDING.

Section 411a(3) (42 U.S.C. 618(a)(3)) is amended—

(1) by striking “and” at the end of subparagraph (E);

(2) by striking the period at the end of paragraph (F) and inserting “;”;

(3) by redesignating paragraph (G) as paragraph (H); and

(4) by striking the period at the end of subsection (a)(3) and inserting “.”.
TITLE III—CHILD SUPPORT

SEC. 301. FEDERAL MATCHING FUNDS FOR LIMITED PASS THROUGH OF CHILD SUPPORT PAYMENTS TO FAMILIES RECEIVING TANF.

(a) In general.—Section 457(a) (42 U.S.C. 677(a)) is amended—
(1) in paragraph (1)(A), by inserting “subject to paragraph (7)” before the semicolon; and
(2) by adding at the end the following:
“(7) FEDERAL MATCHING FUNDS FOR LIMITED PASS THROUGH OF CHILD SUPPORT PAYMENTS TO FAMILIES RECEIVING TANF.—Notwithstanding paragraph (1), a State shall not be required to pay to the Federal Government the Federal share of an amount collected during a month on behalf of a family that is a recipient of assistance under the State program funded under part A, to the extent that—
“(A) the State distributes the amount to the family; “(B) the total of the amounts so distributed to the family during the month—
“(i) exceeds the amount (if any) that, as of December 31, 2001, was required under State law to be distributed to a family under paragraph (1)(B); and
“(ii) does not exceed the greater of—
“(I) $100; or
“(II) $5 plus the amount described in clause (i); and
“(C) the amount is disregarded in determining the amount and type of assistance provided to the family under the State program funded under part A.”.

(b) Applicability.—The amendments made by subsection (a) shall apply to amounts distributed on or after October 1, 2007.

SEC. 302. STATE OPTION TO PASS THROUGH ALL CHILD SUPPORT PAYMENTS TO FAMILIES THAT FORMERLY RECEIVED TANF.

(a) In general.—Section 457(a) (42 U.S.C. 677(a)) as amended by section 301(a) of this Act, is amended—
(1) in paragraph (2)(B), in the matter preceding clause (i), by inserting “, except as provided in paragraph (8), “after shall”, and
(2) by adding at the end the following:
“(8) STATE OPTION TO PASS THROUGH ALL CHILD SUPPORT PAYMENTS TO FAMILIES THAT FORMERLY RECEIVED TANF.—In lieu of applying paragraph (2) to any family described in paragraph (2), a State may distribute to the family any amount collected during a month on behalf of the family.”.

(b) Applicability.—The amendments made by subsection (a) shall apply to amounts distributed on or after October 1, 2007.

SEC. 303. MANDATORY REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDER FOR FAMILIES RECEIVING TANF.

(a) In general.—Section 456(a)(10)(A)(i) (42 U.S.C. 666(a)(10)(A)(i)) is amended—
(1) by striking “parent, or,” and inserting “parent or”;
(2) by striking “upon the request of the State agency under the State plan or of either parent,.”;

(b) Effective date.—The amendments made by subsection (a) shall take effect on October 1, 2007.

SEC. 304. MANDATORY FEE FOR SUCCESSFUL CHILD SUPPORT COLLECTION FOR FAMILY THAT HAS NEVER RECEIVED TANF.

(a) In general.—Section 456(b)(4) (42 U.S.C. 664(b)(4)) is amended—
(1) by inserting “(i)” after “(B)”;
(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;
(3) by adding “and” after the semicolon; and
(4) by adding after and below the end the following:
“(ii) in the case of an individual who has never received assistance under a State program funded under part A and for whom the State has collected at least $500 of support, the State shall impose an annual fee of $25 for each case in which services are furnished, which shall be distributed on behalf of the individual (but not from the $500 so collected), paid by the individual applying for the services, recovered from the absent parent, or paid by the State out of its own funds (the payment of which from State funds shall not be considered as an administrative cost of the State for the operation of the plan, and such fees shall be considered income to the program);”.

(b) Conforming amendment.—Section 457(a)(3) (42 U.S.C. 677(a)(3)) is amended to read as follows:
“(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute to the family the portion of the amount so collected that remains after withholding any fee pursuant to section 456(b)(ii).”.

(c) Effective date.—The amendments made by this section shall take effect on October 1, 2006.

SEC. 305. REPORT ON UNDISTRIBUTED CHILD SUPPORT PAYMENTS.

Not later than 6 months after the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the procedures that the States use generally to locate custodial parents for whom child support has been collected but not yet distributed. The report shall include an estimate of the total amount of undistributed child support and the average length of time it takes undistributed child support to be distributed. To the extent the Secretary deems appropriate, the Secretary shall include in the report recommendations as to whether additional procedures should be established at the State or Federal level to expedite the payment of undistributed child support.

SEC. 306. DECREASE IN AMOUNT OF CHILD SUPPORT ARREARAGE TRIGGERING PASSPORT DENIAL.

(a) In general.—Section 452(k)(1) (42 U.S.C. 652(k)(1)) is amended by striking “$5,000” and inserting “$2,500.”.

(b) Conforming amendment.—Section 452(j)(4) (42 U.S.C. 652(j)(4)) is amended by striking “$5,000” and inserting “$2,500.”.

(c) Effective date.—The amendments made by this section shall take effect on October 1, 2006.

SEC. 307. USE OF TAX REFUND INTERCEPT PROGRAM TO COLLECT PAST-DUE CHILD SUPPORT Owing TO BEHALF OF CHILDREN WHO ARE NOT MINORS.

(a) In general.—Section 461 (42 U.S.C. 664) is amended—
(1) by striking paragraph (a)(2)(A), by striking “as that term is defined for purposes of this paragraph under subsection (c)”; and
(2) in subsection (c)—
(A) in paragraph (1)—
(i) by striking “Except as provided in paragraph (2), as used in” and inserting “In”; and
(ii) by inserting “whether or not a minor” after “a child each place it appears; and
(B) by striking paragraphs (2) and (3).

(b) Effective date.—The amendments made by subsection (a) shall take effect on October 1, 2007.

SEC. 308. GARNISHMENT OF COMPENSATION PAID TO VETERANS AND MILITARY PERSONNEL WITH SERVICE-CONNECTED DISABILITIES IN ORDER TO ENFORCE CHILD SUPPORT ORDER.

(a) In general.—Section 459(h) (42 U.S.C. 659(h)) is amended—
(1) in paragraph (1)(A)(i)(V), by striking all that follows “Armed Forces” and inserting “a veteran”;
(2) by adding at the end the following:
“(B) Limitations on garnishment.—Pursuant to the paragraph (1)(A)(ii)(V) shall not be subject to withholding pursuant to this section—
“(i) for payment of alimony; or
“(ii) if the State determines that it is necessary to protect the recipient if the individual is fewer than 60 days in arrears in payment of the support.
“(C) Not less than 50 percent of any payment required to be paid pursuant to paragraph (1)(A)(ii)(V) may be withheld pursuant to this section.”;

(b) Effective date.—The amendments made by subsection (a) shall take effect on October 1, 2007.

SEC. 309. IMPROVING FEDERAL DEBT COLLECTION PRACTICES.

(a) In general.—Section 3716(b)(3) of title 31, United States Code, is amended to read as follows:
“(3) In applying this subsection with respect to any debt owed to a State, other than a debt due the State for the operation of the plan, subsection (c)(3)(A) shall not apply. Subsection (c)(3)(A) shall apply with respect to past due support being enforced by the State not conducted as a purpose of another waiver or project that includes sections 207 and 1601(d)(1) of the Social Security Act (42 U.S.C. 407 and 1333(d)(1)), section 415(b) of Public Law 91–173 (30 U.S.C. 926(b)), and section 14 of the Act of August 29, 1935 (45 U.S.C. 231m).”.

(b) Effective date.—The amendments made by subsection (a) shall take effect on October 1, 2006.

SEC. 310. MAINTENANCE OF TECHNICAL ASSISTANCE FUNDING.

Section 452(l) (42 U.S.C. 652(l)) is amended by inserting “or the amount appropriated under this paragraph for fiscal year 2002, whichever is greater,” before “which shall be available”.

SEC. 311. MAINTENANCE OF FEDERAL PARENT LOCATOR SERVICE FUNDING.

Section 453(o) (42 U.S.C. 653(o)) is amended—
(1) in the 1st sentence, by inserting “or the amount appropriated under this paragraph for fiscal year 2002, whichever is greater,” before “which shall be available”;
(2) in the 2nd sentence, by striking “for each fiscal years 1997 through 2001”.

TITLE IV—CHILD WELFARE

SEC. 401. EXTENSION OF AUTHORITY TO PROVE DEMONSTRATION PROJECTS.

Section 1130(a)(2) (42 U.S.C. 1320a–9(a)(2)) is amended by striking “2002” and inserting “2010”.

SEC. 402. ELIMINATION OF LIMITATION ON NUMBER OF WAIVERS.

Section 1130(a)(2) (42 U.S.C. 1320a–9(a)(2)) is amended by striking “not more than 10”.

SEC. 403. ELIMINATION OF LIMITATION ON NUMBER OF STATES THAT MAY BE GRANTED WAIVERS TO CONDUCT DEMONSTRATION PROJECTS ON SAME TOPIC.

Section 1130 (42 U.S.C. 1320a–9) is amended by adding at the end the following:
“(h) No Limit on Number of States That May Be Granted Waivers to Conduct Demonstration Projects on Same Topic.”.

SEC. 404. ELIMINATION OF LIMITATION ON NUMBER OF STATES THAT MAY BE GRANTED WAIVERS TO CONDUCT DEMONSTRATION PROJECTS ON SAME TOPIC.

Section 1130 (42 U.S.C. 1320a–9) is amended by striking “2008–9” and inserting “2010”.

SEC. 405. ELIMINATION OF LIMITATION ON NUMBER OF STATES THAT MAY BE GRANTED WAIVERS TO CONDUCT DEMONSTRATION PROJECTS ON SAME TOPIC.

The Secretary shall not refuse to grant a waiver to a State under this section on the grounds that a purpose of the waiver or of the demonstration project for which the waiver is necessary would be the same as or similar to a purpose of another waiver or project that is or may be conducted under this section.”.

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SEC. 404. ELIMINATION OF LIMITATION ON NUM- 
BER OF WAIVERS THAT MAY BE GRANTED TO A SINGLE STATE FOR 
DEMONSTRATION PROJECTS.

Section 1330 (42 U.S.C. 1320a–9) is further amended by adding at the end the following:

"(i) No limit on number of waivers granted to demonstration projects that may be conducted by a single State.—The Secretary shall not impose any limit on the number of waivers that may be granted to a State, or the number of demonstration projects that a State may be authorized to conduct, under this section.".

SEC. 405. STREAMLINED PROCESS FOR CONSID- 
ERATION OF AMENDMENTS AND EXTENSIONS TO 
AND ADJUSTMENTS OF FUNDING FOR PROGRAMS 
ACQUIRING WAIVERS.

Section 1330 (42 U.S.C. 1320a–9) is further amended by adding at the end the following:

"(j) Streamlined Process for Consideration of Amendments and Extensions.—The Secretary shall develop a streamlined process for consideration of amendments and extensions proposed by States to demonstration projects conducted under this section.".

SEC. 406. AVAILABILITY OF REPORTS.

Section 1330 (42 U.S.C. 1320a–9) is further amended by adding at the end the following:

"(k) Availability of Reports.—The Secretary shall make available to any State or other interested party any report provided to the Secretary under subsection (f)(2), and any evaluation or report made by the Secretary to a demonstration project conducted under this section, with a focus on information that may promote best practices and program improvements.".

SEC. 407. APPLICATION REQUIREMENTS.

Section 1330(b)(1) (42 U.S.C. 1320a–9(b)(1)) is amended by striking "422(b)(9)" and inserting "422(b)(10)".

TITLE V—SUPPLEMENTAL SECURITY INCOME

SEC. 501. REVIEW OF STATE AGENCY BLINDESS 
AND DISABILITY DETERMINATIONS.

Section 1633 (42 U.S.C. 1383b) is amended by adding at the end the following:

"(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

(2) In carrying out paragraph (1), the Commissioner of Social Security shall review—

"(i) at least 20 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2006; and

"(ii) at least 40 percent of all such determinations that are made in fiscal year 2007; and

"(iii) at least 50 percent of all such determinations that are made in fiscal year 2008 or thereafter.

(3) In carrying out subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.".

TITLE VI—STATE AND LOCAL FLEXIBILITY

SEC. 601. PROGRAM COORDINATION DEM- 
ONSTRATION PROJECTS.

(a) Purpose.—The purpose of this section is to establish a program of demonstration projects in a State or portion of a State to coordinate multiple public assistance, workforce development, and other programs for the purpose of supporting working individuals and families, helping families escape welfare dependency, promoting child well-being, or helping build stronger families, using innovative approaches to strengthen service systems and provide more coordinated and effective delivery.

(b) Definitions.—In this section:

(1) ADMINISTERING SECRETARY.—The term "administering Secretary" means, with respect to a qualified program, the head of the Federal agency responsible for administering the program.

(2) QUALIFIED PROGRAM.—The term "qualified program" means—

(A) a program under part A of title IV of the Social Security Act;

(B) the program under title XX of such Act;

(C) activities funded under title I of the Workforce Investment Act of 1998, except subtitle C of such Act;

(D) a demonstration project authorized under section 505 of the Family Support Act of 1988;

(E) activities funded under the Wagner-Peyser Act;

(F) activities funded under the Adult Education and Family Literacy Act;

(G) activities funded under the Child Care and Development Block Grant Act of 1990;

(H) activities funded under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), except that such term shall not include—

(i) any program for rental assistance under section 8 of such Act (42 U.S.C. 1437f);

(ii) a demonstration project (2) under such Act (42 U.S.C. 1437e) for designating public housing for occupancy by certain populations;

(iii) activities funded under title I, II, III, or IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.); or

(iv) the food stamp program as defined in section 3(h) of the Food Stamp Act of 1977 (42 U.S.C. 2012(b)).

(c) APPLICATION REQUIREMENTS.—The head of a State entity or of a sub-State entity administering 2 or more qualified programs proposed to be included in a demonstration project under this section shall, or, if the project is proposed to include qualified programs administered by 2 or more such entities, the heads of the administering entities (each of whom shall be considered an applicant), submit an application to the Secretary, at such times and in such manner as the Secretary determines that the application will include the coordination of 2 or more qualified programs.

(d) PROVISIONS EXCLUDED FROM WAIVER AUTHORITY.—In general.—The administering Secretary, at the request of a qualified program, may approve the application, and, except as provided in paragraph (2), waive any requirement applicable to the project, to the extent consistent with this section and necessary and appropriate to further the objectives of the demonstration project proposed in the application, if the administering Secretary determines that the project—

(A) has a reasonable likelihood of achieving the objectives of the programs to be included in the project;

(B) may reasonably be expected to meet the applicable cost neutrality requirements of paragraph (4), as determined by the Director of the Office of Management and Budget;

and

(C) includes the coordination of 2 or more qualified programs.

(e) Waivers Requested.—A description of the statutory and regulatory requirements with respect to which a waiver is requested to be included in the project, and a justifi- cation of the need for each such waiver.

(f) Cost Neutrality.—Such information and reports as the administering Secretary, in consultation with the Director of the Office of Management and Budget, that the proposed project is reasonably expected to meet the applicable cost neutrality require- ments of subsection (d)(4), and appropriate assurances. An assur- ance that the applicant will conduct ongoing and final evaluations of the project, and make interim and final reports to the admin- istering Secretary, at such times and in such manner as the administering Secretary may require.

(f) PUBLIC HOUSING AGENCY PLAN.—In the case of an application proposing a demon- stration project that includes activities referred to in subsection (b)(2)(H) of this section—

(A) a certification that the applicable annual public housing agency plan of any agency affected by the project that is approved under section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1) by the Secretary includes the information specified in paragraphs (1) through (4) of this subsection; and

(B) any resident advisory board recom- mendations, and other information, relating to the project that, pursuant to section 5A(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437c–1), is required to be included in the public housing agency plan of any public housing agency affected by the project.

(g) OTHER INFORMATION AND ASSURANCES.—Such other information and assurances as the administering Secretary may require.

(h) APPROVAL OF APPLICATIONS.—In general.—The administering Sec- retary with respect to a qualified program that is identified in an application submitted pursuant to subsection (c) may approve the application and, except as provided in para- graph (2), waive any requirement applicable to the project, to the extent consistent with this section and necessary and appro- priate to further the objectives of the demonstration project proposed in the application, if the administering Secretary determines that the project—

(A) has a reasonable likelihood of achieving the objectives of the programs to be included in the project;

(B) may reasonably be expected to meet the applicable cost neutrality requirements of paragraph (4), as determined by the Direc- tor of the Office of Management and Budget; and

and

(C) includes the coordination of 2 or more qualified programs.
(i) section 6 (if waiving a requirement under such section would have the effect of expanding eligibility for the program), 7(b) or 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);
(ii) title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 601 et seq.);
(iii) the application requirement that the Secretary determine by regulation that the Governor of a State fails to issue an application notice of the receipt, an application to conduct a demonstration project under this section, the administering Secretary shall submit to each Committee of Congress which has jurisdiction over the qualified program identified in the application notice a description of the decision of the administering Secretary with respect to the application, and the reasons for approving or disapproving the application.

(c) Application projects.—Each administering Secretary shall provide annually to the Congress a report concerning demonstration projects approved under this section, including—

(1) the projects approved for each application;
(2) the number of waivers granted under this section, and the specific statutory provisions waived;
(3) how well each project for which a waiver is granted is improving or enhancing program achievement from the standpoint of quality, cost-effectiveness, or both;
(4) how well each project for which a waiver is granted is meeting the performance objectives specified in subsection (c)(3)(B);
(5) how each project for which a waiver is granted is improving the cost-neutrality requirements of subsection (d)(4); and
(6) to the extent that the administering Secretary deems appropriate, recommendations for modifications of programs based on outcomes of the projects.

(d) Authorization of appropriations.—

(1) In general.—The Secretary shall establish a program to make grants to States in accordance with this section to provide—

(i) food assistance to needy individuals and families residing in the State;
(ii) funds to operate employment and training program under subsection (g) for needy individuals under the program; and
(iii) funds for administrative costs incurred in providing the assistance.

(b) Election.—

(1) In general.—A State may elect to participate in the program established under subsection (a).

(b) Election.—

(2) Election revocable.—A State that elects to participate in the program established under subsection (a) may subsequently request, pursuant to section 14(j)(3) of the Omnibus Budget Reconciliation Act of 1981, an additional information is provided.

(c) Lead agency.—

(1) Designation.—A State desiring to participate in the program established under subsection (a) shall designate, in an application submitted to the Secretary under subsection (a)(1), an agency of the State government that complies with paragraph (2) to act as the lead agency for the State.

(2) Duties.—The lead agency shall—

(a) administer, either directly, through other State agencies, or through local agencies, the assistance received under this section by the State;
(b) develop the State plan to be submitted to the Secretary under subsection (d)(1); and
(c) coordinate the provision of food assistance under this section with other Federal, State, and local programs.

(d) Application and plan.—

(1) Application.—To be eligible to receive assistance under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by regulation require, including—

(A) an assurance that the State will comply with the requirements of this section;
(B) a State plan that meets the requirements of paragraphs (2) and (3); and
(C) an assurance that the Secretary shall be satisfied with the requirements of the plan submitted under subsection (d)(1).

(2) Requirements of plan.—

(A) General rule.—The State plan shall identify the lead agency.

(B) Use of block grant funds.—The State plan shall provide that the State shall use the amounts provided to the State for each fiscal year under this section to provide food assistance to needy individuals and families residing in the State, other than residents of institutions who are ineligible for food stamp assistance under section 3(i);

(C) to administer an employment and training program under subsection (g) for needy individuals under the program and to provide reimbursements to needy individuals and families as would be allowed under section 16(b)(3);

(III) to pay administrative costs incurred in providing the assistance.

(IV) Assistance for other states.—The State plan shall provide that benefits under this section shall be available throughout the entire State.

(V) Hearings.—The State plan shall provide that an individual or family who applies for, or receives, assistance...
under this section shall be provided with notice of, and an opportunity for a hearing on, any action under this section that adversely affects the individual or family.

"(E) Failure determined through an audit to the legislature of the State and to the Secretary.

"(F) Noncompliance.—In the case of a finding of noncompliance made pursuant to this section, shall, in addition to, or in lieu of, imposing the sanctions described in subparagraph (A), impose other appropriate sanctions, including the suspension or revocation.

"(G) The Secretary may offset the amounts against any other amount paid to the State under this section.

"(H) Enforcement.—The powers, remedies, and procedures set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) may be used by the Secretary to enforce paragraph (1).

"(I) Allotments.—

"(i) definition of State.—In this section, the term 'State' means each of the 50 States, the District of Columbia, Guam, and the Virgin Islands of the United States.

"(ii) redefinition of State.—A State shall be defined as a State of the finding and that no further payments to the State will be made under this program or activity until the State is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

"(J) Enforcement.—After the close of each fiscal year, a State shall arrange for an audit of the expenditures of the State during the program period from amounts received under this section.

"(1) Independent Auditor.—An audit under this section shall be conducted by an independent auditor that is independent of any agency administering activities that receive assistance under this section and be in accordance with generally accepted auditing principles.

"(2) Payment Accuracy.—Each annual audit under this section shall include an audit of payment accuracy under this section that shall be based on a statistically valid sample of the caseload in the State.

"(3) Reimbursement.—A State shall reimburse the Secretary for the costs of any audit conducted under this section.

"(4) Audit of State.—The Secretary shall reimburse the State for the costs of any audit conducted under this section, on a pro rata basis, to the extent necessary to audit under this section a total amount that is equal to the sum of—

"(i) the greater of, as determined by the Secretary—

"(A) the total dollar value of all benefits issued under the food stamp program established under this Act by the State during fiscal year 2005; or

"(B) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 2003 through 2005; and

"(ii) the greater of, as determined by the Secretary—

"(A) the total amount received by the State for administrative costs and the employment and training program under subsections (a) and (b), respectively, of section 16 of this Act for fiscal year 2005; or

"(B) the average per fiscal year of the total amount received by the State for administrative costs and the employment and training program under subsections (a) and (b), respectively, of section 16 of this Act for each of fiscal years 2003 through 2005.

"(2) Insufficient Funds.—If the Secretary finds that the total amount of allotments to which States would otherwise be entitled for a fiscal year under subparagraph (A) will exceed the amount of funds that will be made available to the States under this section for the fiscal year, the Secretary shall reduce the allotments made to States under this subsection, on a pro rata basis, to the extent necessary to allot under this subsection a total amount that is equal to the funds that will be made available.

"(4) Definition of Food Assistance.—In this section, the term 'food assistance' means assistance that may be used only to obtain food, as defined in section 3(g).

"(5) Review of Compliance with State Plan.—The Secretary shall review and monitor State compliance with this section and the State plan approved under subsection (d)(3).

"(6) Noncompliance.—

"(A) In General.—If the Secretary, after reason not to allow the State and opportunity for a hearing, finds that—

"(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the State plan approved under subsection (d)(3); or

"(ii) in the operation of any program or activity for which assistance is provided under this section, there is a failure by the State to comply substantially with any provision of this section, the Secretary shall notify the State of the finding and that no further payments to the State will be made under this program or activity until the State is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

"(B) Other Sanctions.—In the case of a finding of noncompliance made pursuant to this section, shall, in addition to, or in lieu of, imposing the sanctions described in subparagraph (A), impose other appropriate sanctions, including the suspension or revocation.

"(C) Notice.—The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed improperly.

"(D) Issuance of Regulations.—The Secretary shall establish by regulation procedures for—

"(i) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this section; and

"(ii) imposing sanctions under this section.

"(E) Payment.—

"(1) In General.—For each fiscal year, the Secretary shall establish the amount that has an application approved by the Secretary under subsection (d)(3) that is equal to the allotment of the State under subsection (l)(2) for the fiscal year.

"(2) Method of Payment.—The Secretary shall make payments to a State for a fiscal year under this section by issuing 1 or more letters of credit for the fiscal year, with necessary adjustments on account of overpayments or underpayments, as determined by the Secretary.

"(3) Spending of Funds by State.—

"(A) in general.—Except as provided in subparagraph (B), payments to a State from an allotment under subsection (l)(2) for a fiscal year may be expended by the State only in the fiscal year.

"(B) Carryover.—The State may reserve up to 10 percent of an allotment under subsection (l)(2) for a fiscal year to provide assistance under this section in subsequent fiscal years, except that the reserved funds may not exceed 30 percent of the total allotment received under this section for a fiscal year.

"(4) Provision of Food Assistance.—A State may provide food assistance under this section only to individuals who are ineligible to receive food assistance under this section because of race, religion, color, national origin, sex, or disability.

"(5) Definition of Food Assistance.—In this section, the term 'food assistance' means assistance that may be used only to obtain food, as defined in section 3(g).

"(6) Review of Compliance with State Plan.—The Secretary shall review and monitor State compliance with this section and the State plan approved under subsection (d)(3).

"(7) Noncompliance.—If the Secretary, after reason not to allow the State and opportunity for a hearing, finds that—

"(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the State plan approved under subsection (d)(3); or

"(ii) in the operation of any program or activity for which assistance is provided under this section, there is a failure by the State to comply substantially with any provision of this section, the Secretary shall notify the State of the finding and that no further payments to the State will be made under this program or activity until the State is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

"(8) Other Information.—The State plan shall establish the information and resource eligibility requirements that are established for the receipt of assistance under this section.

"(9) Reimbursement.—A State shall reimburse the Secretary for the costs of any audit conducted under this section, on a pro rata basis, to the extent necessary to audit under this section a total amount that is equal to the funds that will be made available.

"(10) Enforcement.—The powers, remedies, and procedures set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) may be used by the Secretary to enforce paragraph (1).
the manner authorized for fiscal year 2004, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary and sufficient for the purpose of the distribution to other amounts appropriated for such purpose for fiscal year 2005. Grants and payments may be made pursuant to this authority through the end of the fourth quarter of fiscal year 2005 at the level provided for such activities through the fourth quarter of fiscal year 2004.

(b) Effective Date.—Subparagraph (a) takes effect upon the date of the enactment of this Act.

B. Allotment of Funds.—Section 510(a) (42 U.S.C. 1396a(a)) is amended by—

1. The matter preceding paragraph (1), by striking “an application for the fiscal year under section 505(a)” and inserting “an application for the fiscal year, an application under section 505(a), and an application under this section (in such form and meeting such terms and conditions as determined appropriate by the Secretary)”;

2. In paragraph (2), to read as follows:

“(2) the percentage that would be determined for the State under section 502(c)(1)(B)(ii) if the calculation under such section took into consideration only those States that transmitted both such applications under section 505(a) and an application under section 505(a), and an application under this section (in such form and meeting such terms and conditions as determined appropriate by the Secretary)”;

(c) Reallocation of Funds.—Section 510 (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

“(e)(1) With respect to allotments under subsection (a) for fiscal year 2006 and subsequent fiscal years, the amount of any allotment to a State for a fiscal year that the Secretary determines will not be required to carry out a program under this section during such fiscal year or the succeeding fiscal year shall be available for reallocation from time to time during such fiscal years on such dates as the Secretary may fix, to other States that by the Secretary determines—

“(A) require amounts in excess of amounts previously allotted under subsection (a) to carry out a program under this section; and

“(B) require amounts in excess amounts during such fiscal years.

“(2) Reallocations under paragraph (1) shall be made on the basis of such States’ applications under this section, after taking into consideration the population of low-income children in each such State as compared with the population of low-income children in all such States with respect to which a determination under paragraph (1) has been made by the Secretary.

“(3) Any amount reallocated under paragraph (1) to a State is deemed to be part of its allotment under subsection (a).

(d) Effective Date.—The amendments made by this section shall be effective with respect to the program under section 510 of the Social Security Act for fiscal years 2006 and succeeding fiscal years.

TITLED VIII—TRANSITIONAL MEDICAL ASSISTANCE


(a) In General.—Section 1925(f) (42 U.S.C. 1396h–6(f)) is amended by striking “2003” and inserting “2006”.

(b) Conforming Amendment.—Section 1902(e)(1)(B) (42 U.S.C. 1396a(e)(1)(B)) is amended by striking “September 30, 2003” and inserting “the last date (if any) on which section 1925 applies under subsection (f) of that section”.

(c) Effective Date.—The amendments made by this section shall take effect on April 1, 2005.
level of safety to American consumers they do not currently enjoy.

(4) According to the Congressional Budget Office, American seniors alone will spend $1,800,000,000 on pharmaceuticals over the next 10 years.

(5) Allowing open pharmaceutical markets could save American consumers at least $65,000,000,000 in their own money each year.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To give all Americans immediate relief from the outrageously high cost of pharmaceuticals.

(2) To reverse the perverse economics of the American pharmaceutical market.

(3) To allow the importation of prescription drugs if such drugs and facilities where such drugs are manufactured are approved by the Food and Drug Administration, and to exclude pharmaceutical narcotics.

(4) To require that imported prescription drugs be packaged and shipped using counterfeit-resistant technologies.

SEC. 4. AMENDMENTS TO SECTION 804 OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) DEFINITIONS.—Section 804(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(a)) is amended to read as follows:

‘‘(a) DEFINITIONS.—In this section:

‘‘(1) IN GENERAL.—The term ‘pharmacist’ means a person licensed by a State to practice pharmacy, including the dispensing and selling of drugs.

‘‘(2) PHARMACY.—The term ‘pharmacy’ means a person that is in the business of selling prescription drugs at retail that employs 1 or more pharmacists.


‘‘(4) PROFESSIONAL.—The term ‘professional’ means a person licensed by a State to practice pharmacy, including the dispensing and selling of drugs.

‘‘(b) REGULATIONS.—Section 804(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(b)) is amended by striking ‘‘prescription drug’’ each place it appears and inserting ‘‘qualifying drug’’.

‘‘(c) INFORMATION AND RECORDS.—Section 804(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(c)) is amended by striking ‘‘prescription drug’’ each place it appears and inserting ‘‘qualifying drug’’.

‘‘(d) LIMITATION.—Section 804(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(d)) is amended by striking ‘‘prescription drug’’ each place it appears and inserting ‘‘qualifying drug’’.

‘‘(e) TESTING.—Section 804(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(e)) is amended by striking ‘‘prescription drug’’ each place it appears and inserting ‘‘qualifying drug’’.

‘‘(f) REGISTRATION OF EXPORTERS.—Section 804(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(h)) is amended to read as follows:

‘‘(h) REGISTRATION OF EXPORTERS; INSPECTIONS.—

‘‘(1) IN GENERAL.—Any person that seeks to be a registered exporter (referred to in this subsection as the ‘registrant’) shall submit to the Secretary a registration that includes the following:

‘‘(A) The name of the registrant and identification of all places of business of the registrant that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the registrant;

‘‘(B) An agreement by the registrant to—

‘‘(i) make its places of business that relate to qualifying drugs (including warehouses and other facilities owned or controlled by, or operated for, the registrant) available to the Secretary for on-site inspections, without prior notice, for the purpose of determining whether the registrant is in compliance with this Act’s requirements;

‘‘(ii) export only qualifying drugs;

‘‘(iii) export only to persons authorized to import the drugs;

‘‘(iv) notify the Secretary of a recall or withdrawal of a qualifying drug distributed in a permitted country or from which the registrant has exported or imported, or intend to export or import, to the United States;

‘‘(v) monitor compliance with registration conditions and report any noncompliance promptly;

‘‘(vi) submit a complaint plan showing how the registrant will correct violations, if any; and

‘‘(vii) promptly notify Secretary of changes in the registration information of the registrant.

‘‘(2) NOTICE OF APPROVAL OR DISAPPROVAL.—

‘‘(A) IN GENERAL.—Not later than 90 days after receiving a completed registration from a registrant, the Secretary shall—

‘‘(i) notify such registrant of receipt of the registration;

‘‘(ii) assign such registrant a registration number; and

‘‘(iii) approve or disapprove the application.

‘‘(B) DISAPPROVAL OF APPLICATION.—

‘‘(i) IN GENERAL.—The Secretary shall disapprove a registration, and notify the registrant of such disapproval, if the Secretary has reason to believe that such registrant is not in compliance with a registration condition.

‘‘(ii) SUBSEQUENT APPROVAL.—The Secretary may subsequently approve a registration that was denied under clause (i) if the Secretary finds that the registrant is in compliance with all registration conditions.

‘‘(c) LISTS.—The Secretary shall—

‘‘(1) maintain an up-to-date list of registered exporters (including qualifying Internet pharmacies that sell qualifying drugs to individuals);

‘‘(2) make such list available to the public on the Internet site of the Food and Drug Administration and via a toll-free telephone number; and

‘‘(3) update such list promptly after the approval of a registration under this subsection.

‘‘(d) EDUCATION OF CONSUMERS.—The Secretary shall carry out activities, by use of the Internet website and toll-free telephone number under paragraph (3), that educate consumers with regard to the availability of qualifying drugs for import for personal use under this section, including information on how to verify whether an exporter is registered.

‘‘(e) INSPECTION OF IMPORTERS AND REGISTERED EXPORTERS.—The Secretary shall inspect the warehouses, other facilities, and records of importers and registered exporters as often as the Secretary determines necessary to ensure that such importers and registered exporters are in compliance with this section.”.’
counterfeit and violative prescription drugs being imported under subsection (b); and
(2) by adding after the period at the end of the following:

"The Secretary shall not make a registration fee determination to a specific importer upon a determination by the Secretary that the violation has been corrected and that the importer has demonstrated that further violations will not occur. This subsection shall not apply to a prescription drug imported by an individual, or to a prescription drug shipped to an individual by a qualifying Internet pharmacy.

(a) AUTHORITY.—Section 804(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(j)) is amended by striking all after "registration to the Secretary" and substituting the following:

"A fee payable under this section shall be paid by the date that is 30 days after the date on which the fee is due.

(b) DUE DATE.—A fee payable under this section shall be paid by the date that is 30 days after the date on which the fee is due.

(c) EFFECT OF FAILURE TO PAY FEES.—(1) EFFECTIVE DATE.—This section shall take effect 180 days after the date of enactment.

SEC. 7. PATENTS.

(a) PATENTS.—Section 352; deeming drugs and devices to be misbranded unless the packaging of such drug complies with the requirements of the Market Access Act of 2005 in the subsequent fiscal year.

(b) REQUIREMENTS.—Title V of the Federal Drug, Food, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 556B the following:

"SEC. 556B. MARKET ACCESS ACT OF 2005.

(a) IMPORTATION RELATING TO PATENTS.—

(1) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, procedures to audit the use of labels, and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(2) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, procedures to audit the use of labels, and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(3) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, procedures to audit the use of labels, and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(4) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, procedures to audit the use of labels, and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(5) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, procedures to audit the use of labels, and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

SEC. 8. LOCAL GOVERNMENT.

(a) LOCAL GOVERNMENT.—

(1) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, procedures to audit the use of labels, and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(2) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, procedures to audit the use of labels, and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(3) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, procedures to audit the use of labels, and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(4) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, procedures to audit the use of labels, and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(5) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, procedures to audit the use of labels, and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

SEC. 9. REPORTS.

(a) REPORTS.—

(1) The Secretary shall submit to the Congress not later than 180 days after the enactment of the Market Access Act of 2005, a report that describes the public comments on the recommendations for the use and distribution of the label and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(2) The Secretary shall submit to the Congress not later than 180 days after the enactment of the Market Access Act of 2005, a report that describes the public comments on the recommendations for the use and distribution of the label and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(3) The Secretary shall submit to the Congress not later than 180 days after the enactment of the Market Access Act of 2005, a report that describes the public comments on the recommendations for the use and distribution of the label and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(4) The Secretary shall submit to the Congress not later than 180 days after the enactment of the Market Access Act of 2005, a report that describes the public comments on the recommendations for the use and distribution of the label and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

SEC. 10. RESEARCH AND DEVELOPMENT.

(a) RESEARCH AND DEVELOPMENT.—

(1) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, a public comment on the recommendations for the use and distribution of the label and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(2) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, a public comment on the recommendations for the use and distribution of the label and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(3) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, a public comment on the recommendations for the use and distribution of the label and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(4) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, a public comment on the recommendations for the use and distribution of the label and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

SEC. 11. ADMINISTRATIVE CHARGES.

(a) CHARGES.—

(1) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, a public comment on the recommendations for the use and distribution of the label and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(2) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, a public comment on the recommendations for the use and distribution of the label and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(3) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, a public comment on the recommendations for the use and distribution of the label and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(4) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, a public comment on the recommendations for the use and distribution of the label and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.

(5) The Secretary shall establish, by not later than 180 days after the enactment of the Market Access Act of 2005, a public comment on the recommendations for the use and distribution of the label and database access for the relevant governmental agency that audits the use of labels, and database access for the relevant governmental agency.
SEC. 9. OTHER ENFORCEMENT ACTIONS.

(a) Section 804 of the Federal Food, Drug, and Cosmetic Act (as amended by this section; or under authority of the owner or licensee of such patent).

(b) It shall not be an act of infringement to use, offer to sell, or sell within the United States for or from the United States into the United States any patented invention under section 804 (21 U.S.C. 360c) of the Federal Food, Drug, and Cosmetic Act if sold to a person in the United States that does not import a prescription drug under this section, or that does not distribute, sell, or use such a drug; or

(c) the determination of the Secretary under subsection (b) that the drug was supplied in accordance with the requirements of this section with respect to the drug.

(d) It is unlawful for a manufacturer, directly or indirectly (including by being a party to a licensing or other agreement) to

(1) discriminate by charging a higher price for a prescription drug sold to a person in a permitted country that exports a prescription drug to the United States under this section than the price that is charged to another person that is in the same country and that does not export a prescription drug into the United States under this section;

(2) discriminate by charging a higher price for a prescription drug sold to a person in the United States that distributes, sells, or uses a prescription drug imported into the United States under this section than the price that is charged to another person in the United States that does not import a prescription drug under this section, or that does not distribute, sell, or use such a drug;

(3) discriminate by denying supplies of a prescription drug to a person in a permitted country that exports a prescription drug to the United States under this section or distributes, sells, or uses a prescription drug imported into the United States under this section;

(4) discriminate by specifically restricting or impeding the supply of a prescription drug to a person in a permitted country that exports a prescription drug to the United States under this section or distributes, sells, or uses a prescription drug imported into the United States under this section;

(5) cause there to be a difference (including a difference in active ingredient, route of administration, dosage form, strength, formulation, manufacturing establishment, manufacturing process, or person that manufactures the drug) between a prescription drug offered for import under this section to good faith importers of the drug for distribution in the United States and the drug for distribution in a permitted country for the purpose of restricting importation of the drug into the United States under this section;

(6) causing or attempting to cause or aiding or abetting another person to cause or attempt any of the acts prohibited by paragraph (1) of this subsection;

(7) preventing or attempting to prevent or restricting the importation of a drug under this section; or

(8) otherwise attempting to prevent or restrict a person from exercising the powers conferred on the Commission at the same time as the attorney general files the action.

(9) it shall have the right to enjoin such conduct.

(10) enforcing compliance with this subsection.

(II) exemption.

(III) obtain damages, restitution, or other compensation on behalf of residents of the State, to the extent permitted by the laws of the State, including treble damages; or

(IV) obtain such other relief as the court may consider to be appropriate.

(II) Notice.

(1) IN GENERAL.—Before filing an action under clause (1), the attorney general of the State involved shall provide to the Federal Trade Commission

(aa) written notice of that action; and

(bb) a copy of the complaint for that action.

(II) effect of subsection.

(A) SALES IN OTHER COUNTRIES.—This subsection applies only to the sale or distribution of prescription drug in a country if the manufacturer of the drug chooses to sell or distribute the drug in the country. Nothing in this subsection shall be construed to compel the manufacturer to sell or distribute the drug in a country.

(B) DISCOUNTS TO INSURERS, HEALTH PLANS, PHARMACY BENEFIT MANAGERS, AND COVERED ENTITIES.—In this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subclause before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Federal Trade Commission at the same time as the attorney general files the action.

(I) IN GENERAL.—On receiving notice under subparagraph (A)(ii), the Commission shall have the right to intervene in the action. Nothing in this subsection shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(i) conduct investigations;

(ii) administer oaths or affirmations; or

(iii) compel the attendance of witnesses or the production of documentary and other evidence.

(II) ACTIONS BY THE COMMISSION.

(A) IN GENERAL.—In any case in which an action is instituted by or on behalf of the Commission for a violation of paragraph (1), the Attorney General of the United States shall, in a district court of the United States for the appropriate jurisdiction for a violation of paragraph (1) to—

(i) enjoin that practice;

(ii) enforce compliance with this subsection;

(iii) obtain damages, restitution, or other compensation on behalf of residents of the State, to the extent permitted by the laws of the State, including treble damages; or

(iv) obtain such other relief as the court may consider to be appropriate.

(II) effect of intervention.

(1) IN GENERAL.—An attorney general of a State may intervene, on behalf of the residents of that State, in a district court of the United States for the appropriate jurisdiction for a violation of paragraph (1) to—

(i) enjoin that practice;

(ii) enforce compliance with this subsection;

(iii) obtain damages, restitution, or other compensation on behalf of residents of the State, to the extent permitted by the laws of the State, including treble damages; or

(iv) obtain such other relief as the court may consider to be appropriate.

(II) effect of intervention.

(1) IN GENERAL.—An attorney general of a State or the Secretary of the United States may intervene, on behalf of the residents of that State, in a district court of the United States for the appropriate jurisdiction for a violation of paragraph (1) to—

(i) enjoin that practice;

(ii) enforce compliance with this subsection;

(iii) obtain damages, restitution, or other compensation on behalf of residents of the State, to the extent permitted by the laws of the State, including treble damages; or

(iv) obtain such other relief as the court may consider to be appropriate.
action instituted by the Commission, such attorney general shall have the right—

"(1) to be heard with respect to any matter that arises in that action; and

"(2) to file a brief in support of appeal.";

"(E) VENUE.—Any action brought under subparagraph (A) may be brought in the district court of the United States that meets applicable relating requirements under section 1391 of title 28, United States Code.

"(F) SERVICE OF PROCESS.—In an action brought under subparagraph (A), process may be served in any district in which the defendant—

"(i) is an inhabitant; or

"(ii) may be found.

"(G) LIMITATION OF ACTIONS.—Any action under this paragraph to enforce a cause of action under this subsection by the Federal Trade Commission or the attorney general of a State shall be forever barred unless commenced within 5 years after the Federal Trade Commission, or the attorney general, as the case may be, knew or should have known that the cause of action accrued. No cause of action barred under existing law on the effective date of this Act shall be revived by this Act.

"(H) MEASUREMENT OF DAMAGES.—In any action under this paragraph to enforce a cause of action under this subsection by the Federal Trade Commission, or the attorney general, in which there has been a determination that a defendant has violated a provision of this subsection, damages may be proved and assessed by statistical or sampling methods, by the computation of illegal overcharges or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

"(I) EFFECT ON ANTITRUST LAWS.—Nothing in this subsection shall be construed to modify, impair, or supersede the operation of the antitrust laws.

"(J) MEASUREMENT OF DAMAGES.—The district court shall exclude from the amount of monetary relief awarded in an action under this paragraph to enforce a cause of action under this subsection, damages which have been awarded for the same injury.

"(K) EFFECT ON ANTITRUST LAWS.—Nothing in this subsection shall be construed to modify, impair, or supersede the operation of the antitrust laws. In any action brought under this subsection, damages shall be measured in accordance with the Clayton Act, except that it includes section 2 of the Clayton Act, and is suspended. After the enactment of this subsection, damages shall not be measured in accordance with the antitrust laws.

"(L) EFFECT ON ANTITRUST LAWS.—Nothing in this subsection shall be construed to modify, impair, or supersede the operation of the antitrust laws.

"(M) EFFECT ON ANTITRUST LAWS.—Nothing in this subsection shall be construed to modify, impair, or supersede the operation of the antitrust laws.

SEC. 4. SUSPENSION AND TERMINATION OF EX- PORTER REGISTRATION.

"(a) SUSPENSION.—With respect to the effectiveness of a registration submitted under subsection (f) by a registered exporter:

"(i) Subject to clause (ii), if the Secretary determines that, under color of the registration, the registered exporter has failed to maintain substantial compliance with all registration conditions, the Secretary may suspend the registration.

"(ii) If the Secretary determines that, under color of the registration, the registered exporter has failed to maintain substantial compliance with all registration conditions, the Secretary shall immediately suspend the registration. A suspension under the preceding sentence is not subject to the provision by the Secretary of prior notice, and the Secretary shall provide to the registered exporter involved an opportunity for a hearing not later than 10 days after the date on which the registration is suspended.

"(b) TERMINATION.—The Secretary, after notice and opportunity for a hearing, shall terminate the registration under subsection (f) of a registered exporter if the Secretary determines that the registered exporter has engaged in a pattern or practice of violating 1 or more registration conditions or, if on 1 or more occasions the Secretary has under subparagraph (A)(ii) suspended the registration of the registered exporter. The Secretary may make the termination permanent, or for a fixed period of not less than 1 year. During the period in which the registration of a registered exporter is terminated, any registration submitted under subsection (f) by such exporter or a person who is a partner in the exporter enterprise or a principal officer in such enterprise, and any registration claiming the assistance of such exporter or such a person, has no legal effect under this section.

 By Mrs. FEINSTEIN:

S. 110. A bill for the relief of Robert Liang and Alice Liang; to the Committee on the Judiciary;

By Mrs. FEINSTEIN. Mr. President, I offer today private relief legislation to provide lawful permanent residence status to Robert Kuan Liang and his wife of 17 years, Alice Hsu-Liang, foreign nationals who live in San Bruno, California.

I have decided to offer private relief immigration bills on their behalf because I believe that, without this hardworking couple and their three United States citizen children would endure an immense and unfair hardship. Indeed, without this legislation, this family may not remain a family for much longer.

The Liangs are foreign nationals facing deportation on account of their overstay of visitors visas, and the failure of their previous attorney to timely file a suspension of deportation application before the immigration laws changed in 1996.

Mr. Liang is a foreign national and refugee from Laos. His wife is a citizen of Taiwan. They entered the United States 22 years ago and established residency in the San Bruno, California. Because they overstayed the terms of their temporary visas, they now face deportation from the United States.

After living here for so many years, removal from the United States would not come easily or perhaps without tearing this family apart. The Liangs have three children born in this country: Wesley, 13 years old, Bruce, 10 years old, and Eva, 7 years old. Young Wesley suffers from asthma and has a history of social and emotional anxiety. The immigration judge who presided over the Liang’s case in 1997 concluded that there was no question that the Liang children would be adversely impacted if they were required to leave the United States and return to Taiwan, a country whose language and culture is unfamiliar to them. And that was 7 years ago. I can only imagine how much more they would be affected now given the passage of 7 more years.

The Liangs have filed annual income tax returns; established a successful business, Fong Yong Restaurant, in the United States; are home owners, and are financially successful. Since they arrived in the United States, they have pursued and, to a degree, achieved the American Dream.

Mr. and Mrs. Liang’s quest to legalize their immigration status began in 1993 when they filed for relief from deportation before an immigration judge. The Immigration and Naturalization Service, however, did not act on their application until nearly 5 years later, in 1997, after which time the immigration law had significantly changed.

According to the immigration judge, had the INS acted on their application for relief from deportation in a timely manner, they would have qualified for suspension of deportation, given that they were long-term residents of this country with US citizen children and other positive factors. By the time INS processed their application, however, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which changed the requirements for relief from removal to the Liangs’ disadvantage.

I supported the changes of the 1996 law, but I believe sometimes there are exceptions which merit special consideration. The Liangs are a couple and family. Perhaps what distinguishes this family from many others is that through hard work and perseverance, their three United States citizen children would endure an immense and unfair hardship. Indeed, without this legislation, this family may not remain a family for much longer.

The Liangs are foreign nationals facing deportation on account of their overstay of visitors visas and the failure of their previous attorney to time-
country of Laos during the Vietnam War. Throughout his childhood and adolescence, Mr. Liang was exposed to numerous traumatic experiences, including the murder of his mother by the North Vietnamese and frequent episodes of wartime violence. He also routinely witnessed the brutal execution and death of others in his village. In 1975, he was granted refugee status in Taiwan.

The emotional impact of Mr. Liang’s experiences in his war-torn native country have been profound and continue to haunt him. In addition to being diagnosed with Post Traumatic Stress Disorder, his psychologist has also indicated that he suffers from severe clinical depression, which has been exacerbated by the prospect of being deported to Taiwan, where on account of his nationality, he believes he and his family would be treated as second-class citizens. Moreover, Mr. Liang believes that his pursuit of further mental health treatment in Taiwan would only exacerbate the stigma of being an outsider in a country whose language he does not speak. Given those prospects, he also fears the impact such a stigma would have on the well-being and future of his children.

Given these extraordinary and unique facts, I ask my colleagues to support this private relief bill on behalf of the Liangs.

I also ask unanimous consent that the text of the legislation be printed in the Record and that the attached three letters of community support also be printed.

The Senate, at the conclusion of the hearing, voted to objection, the bill and letters were ordered to be printed in the Record, as follows:

8. 110

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

SECTION 1. ADJUSTMENT OF STATUS.

(a) In General.—Notwithstanding any other provision of law or any order of the Attorney General, the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Robert Liang and Alice Liang shall be deemed to have been lawfully admitted to, and remained in, the United States and shall be eligible for issuance of an immigrant visa or for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255).

(b) Application and Payment of Fees.—Subsection (a) shall apply only if the applications for issuance of immigrant visas or the applications for adjustment of status are filed with appropriate fees within 2 years after the date of enactment of this Act.

(c) Reduction of Immigrant Visa Numbers.—Upon the granting of immigrant visa to Robert Liang and Alice Liang, the Secretary of State shall instruct the proper officer to reduce by 2, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of the aliens’ birth under section 202(e) or 203(a) of the Immigration and Nationality Act (8 U.S.C. 1152(e), 1153(a)), as applicable.

Re the Liang Family.

Hon. DIANNE FEINSTEIN, U.S. Senate, Hart Senate Office Building, Washington, D.C.

Dear Senator Feinstein: Robert and Alice Liang and their Fon Yong Restaurant at 1065 Holly Street are members in good standing of the San Carlos Chamber of Commerce. As such they have shown their commitment to be members in good standing of the San Carlos business community. Members of the chamber intend to reflect a desire for community involvement and support for their city. The Liangs took the initiative to start a business here over 20 years ago in a most difficult way. They have a very loyal cadre of customers.

The Chamber is always happy to see good small businesses like Fon Yong thrive. The Chamber stands behind Alice and her family in their quest for permanent residence in the United States. Alice is well known to all who frequent her restaurant. A warm, friendly business woman who even takes the time to remember what her regulars’ favorites are. The Liang family is a stable one and they contribute to the well being of our community.

They have done good rather than harm as they settled here. I hope you can respond positively to their example and settle the immigration issue quickly.

Sincerely,

Sheryl Pomerenk, CEO, San Carlos Chamber of Commerce.

JANUARY 13, 2005.

Hon. DIANNE FEINSTEIN, 331 Hart Senate Office Building, Washington, D.C.

Dear Senator Feinstein:

I am writing in support of a private bill for Robert and Alice Liang, two outstanding residents of our community for the past twenty-one years. Robert and Alice are two of the most caring and hardworking people I have ever met. Despite the demands of running a small business and taking care of their three children, they are always trying to help others in need. Recently, Alice heard about Chloe Chang, a young local girl who had acute promyelocytic leukemia. Chloe had undergone chemotherapy, but had a relapse. She needed a bone marrow transplant, and was looking for a donor. Her family was facing tremendous hardship. Without this legislation, Mr. Liang will be forced to return to a country whose linguistic, cultural or family ties.

Thank you so much for your support of the Liangs. Also, please know that I am ready and willing to help you help them.

Sincerely,

Barbara Maas.

By Mrs. FEINSTEIN:

S. 111. A bill for the relief of Shigeru Yamada; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today a private relief legislation to provide lawful permanent residence status to Shigeru Yamada, a 22-year-old Japanese national who lives in Chula Vista, CA.

I have decided to introduce a private bill on his behalf because I believe that Mr. Yamada represents a model American citizen, for whom removal from this country would represent an unfair hardship. Without this legislation, Mr. Yamada will be forced to return to a country in which he lacks any linguistic, cultural or family ties.

Mr. Yamada legally entered the United States with his mother and two sisters in 1992 at the young age of 10. The family was fleeing from Mr. Yamada’s alcoholic father, who had been physically abusive to his mother, the children and even his own parents. Since then, he has had no contact with his father and is unaware if he is even alive. Tragically, Mr. Yamada experienced further hardship when his mother was killed in a car crash in 1995. Orphaned at the age of 13, Mr. Yamada
spent time living with his aunt before moving to Chula Vista to live with a close friend of his late mother.

The death of his mother marked more than a personal tragedy for Mr. Yamada; it also served to impede the procedures for legalizing his status. At the time of her death, Mr. Yamada’s family was living legally in the United States. His mother had acquired a student visa for herself and her children qualified as her dependents. Her death revoked their status in the United States. In addition, Mr. Yamada’s mother was engaged to an American citizen at the time of her death. Had she survived, her son would likely have become an American citizen through this marriage.

Mr. Yamada has exhausted all administrative options under our current immigration system. Throughout high school, he contacted attorneys in the hopes of legalizing his status, but his attempts were unsuccessful. Unfortunately, he was cut and released from the team. Mr. Yamada, the only option available to him today is private relief legislation.

For several reasons, it would be tragic for Mr. Yamada to be deported from the United States and forced to return to Japan.

First, since arriving in the United States, Mr. Yamada has lived as a model American. He graduated with honors from Eastlake High School in 2000, where he excelled in both academics and athletics. Academically, he earned a high level of leadership, as well as his patriotism and trustworthiness among his peers. As an athlete, Mr. Yamada was named the “Most Inspirational Player of the Year” in Junior Varsity baseball and football, as well as, Varsity football. His football coach, Mr. Jose Mendoza, expressed his admiration by saying that he has seen in Shigeru Yamada the “responsibility, hard working, organized, honest, caring and very dependable.” His role as the Vice-President of the Associated Student Body his senior year and the election of Mr. Yamada’s high level of leadership, as well as, his popularity and trustworthiness among his peers. As an athlete, Mr. Yamada was named the “Most Inspirational Player of the Year” in Junior Varsity community. Mr. Yamada has distinguished himself as an honorable individual.

Second, Mr. Yamada has distinguished himself as a local volunteer. As a member of the Eastlake High School Link Crew, he helped freshman find their way around campus, offered tutoring and mentorship services, and set an example of how to be a successful member of the student body.

After graduating from high school, he volunteered his time for 4 years as the coach of the Eastlake High School Link Crew, helping high school students find their way around campus, offered tutoring and mentorship services, and set an example of how to be a successful member of the student body.

Third, sending Mr. Yamada back to Japan would be an immense hardship for him and his family here. Mr. Yamada does not speak Japanese. He is unaware of the nation’s current cultural trends. And, he has no immediate family members that he knows of in Japan. Currently, both of his sisters are in the process of legalizing their immigration status in the United States. His older sister is married to an American citizen and his younger sister is being adopted by a maternal aunt, who is a United States citizen. Since as all of his family lives in California, sending Mr. Yamada back to Japan would serve to split his family apart and separate him from everyone and everything that he knows. His sister contends that her younger brother would be “lost” if he had to return to live in Japan on his own. It is unlikely that he would be able to find any gainful employment in Japan due to his inability to speak or read the language.

As a member of the Chula Vista community, Mr. Yamada has distinguished himself as an honorable individual. His teacher, Mr. Robert Hughes, describes him as an “outstanding All-American young man”. Until being picked up during a routine check of riders’ immigration status on a city bus, he had never been arrested or convicted of any crime. Mr. Yamada is not, and has never been, a burden on the State. He has never received any Federal or State assistance.

Currently, Mr. Yamada holds sophomore status at Southwestern Community College. However, he is taking this semester off in order to alleviate his financial burdens by working full time. He had hoped to pursue a career in law enforcement, but his plans have recently changed due to the current immigration status dilemma. Until the October 2005 deadline, Mr. Yamada will be prohibited from pursuing a career in law enforcement. Due to the circumstances, Mr. Yamada has changed his career goal to that of becoming a high school teacher. Mr. Yamada’s commitment to his education is admirable. He could have easily taken a different path but, through his own “individual fortitude,” he has dedicated himself to his studies so that he can live a better life.

With his hard work and giving attitude, Shigeru Yamada represents the ideal American citizen. Although born in Japan, he is truly American in every other sense. I ask you to help right a wrong and grant Mr. Yamada lawful permanent resident status so that he can continue towards his bright future. Given these extraordinary and unique facts, I ask my colleagues to support this private relief bill on behalf of Shigeru Yamada.

I ask unanimous consent that the text of the bill be printed in the RECORD and that the three letters of community support be printed in the RECORD.

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

S. 111

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

SECTION 1. PERMANENT RESIDENT STATUS FOR
SHIGERU YAMADA.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201(a) of the Immigration and Nationality Act (8 U.S.C. 1251), Shigeru Yamada shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Shigeru Yamada enters the United States before the filing deadline specified in subsection (c), Shigeru Yamada shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of enactment of this Act.

(c) DEADLINE FOR APPLICANTS AND PAYMENT OF FEES.—Subsection (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent resident status to Shigeru Yamada, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Shigeru Yamada under section 203(a) of the Immigration and Nationality Act or, if eligible, the total number of immigrant visas that are made available to natives of the country of birth of Shigeru Yamada under section 202(e) of that Act.

DEAR SENATOR FEINSTEIN: I am more than happy to write this letter on behalf of Shigeru Yamada as he pursues his efforts to stay in the United States. I was Shigeru’s counselor while he attended Eastlake High School. During that time he always displayed exemplary behavior, academic focus, and personal determination.

Academically Shigeru was a model student. He earned a 3.8 grade point average; he made the National Honor Roll and was named to Who’s Who in California High School Students for three straight years. Shigeru plans to attend a university to study sports medicine and physical therapy so he has set high goals for himself. He has the ability to not only handle college-level work, but to thrive on the challenge the university will...
bring. His quiet determination has been an example to his peers and was a joy to his instructors.

Shigeru Yamada not only took the most from his high school experience, but he has consistently “given back” his talents, time, and effort to serve the school community. He was elected ASB-president during his senior year. He demonstrated leadership skills as president of the Inter-Club Council on campus; he mentored incoming ninth-grade students; and worked on various service projects. In addition to his involve-ment in student government, Shigeru participated in football, baseball, and wrestling. He was named J.T. Franks Memorial Award (most in-spirational, varsity football) recipient. (This award carries a great deal of respect amongst the players as it is named after a teammate who died of cancer.) Shigeru was a role model for our students when he attended our school: He earned good grades; he was an athlete; and he was involved in a variety of additional activities. He is the kind of student that Eastlake High School has been proud to have.

A further testimony to Shigeru’s character is what he has been doing since graduating. This young man made it his personal mission to become an assistant football and wrestling coach for our students. He gives his time and energy to working with individual students during the week and on weekends; he not only teaches them on how to improve their athletic skills, but he is also a wonderful role model and mentor. He is someone to whom the young men can relate, a person whose opinions are valued. I have personally seen Shigeru interact with these boys: the respect he gives them and the respect they give Shigeru is an absolute indication of the positive influence he has in their lives.

Shigeru is seeking permanent resident status in the United States through a private bill that you have agreed to sponsor. Were his mother still alive, his residency would not be in question. However, since she died a few years ago in a car accident, Shigeru has had to get through high school without her guidance and support, and now his future in the United States is in jeopardy. Shigeru Yamada is already proven himself to be a hard-working, law-abiding, goal-oriented young man. He has already proven himself to be a productive member of society. And, most importantly, Shigeru wants to not only take the best this society has to offer, but to also give back to the society to make it a better place for those around him.

Perhaps the best endorsement that I can give is that I would be proud to claim Shigeru Yamada as my son. He embodies all I would be proud to claim as father.

The Fulops are good and decent people. Mr. Fulop is a masonry contractor and community leader. As Pastor Peter Petrovic of the Apostolic Christian Church in Encinitas says in his letter of support, “The Fulops are a valuable asset to their community.” The Fulops are long-term residents of the United States with U.S. Citizen children and many positive factors in their favor. Indeed, in 1996, Mr. and Mrs. Fulop applied to the Immigration and Naturalization Service, INS, for permanent resident status. Due to large backlogs, the INS did not interview them until 1998. By the time their applications were considered, the new 1996 immigration law had taken effect. Given their one-time 90 day trip outside the United States, they were unlikely to be eligible for relief pursuant to the cancellation of removal provisions of the Immigration and Nationality Act.

One cannot help but conclude that had the INS acted on the Fulop’s application for relief from deportation in a timelier manner, they would have qualified for suspension of deportation under the pre-1996 law, given that they were long-term residents of the United States with U.S. Citizen children and many positive factors in their favor.

The irony of this situation is that the Fulops were gone from the United States for nearly five months in 1995 because they traveled to Hungary to help Mr. Fulop’s brother build his home. Mr. Fulop’s brother is handicapped and they went to help remodel his home.

The Fulops are good and decent people. Mr. Fulop is a masonry contractor and the owner and president of his own construction company—Sumeg International. He has owned this business for 10 full years and currently has three full-time employees.

The couple are active in their church and community. As Pastor Peter Petrovic of the Apostolic Christian Church of San Diego says in his letter of support, “[t]he family is an exceptional asset to their community.” Mrs. Fulop has served as a Sunday school teacher and volunteers regularly at Heritage K-8 Charter School in Escondido. Mrs. Moriones, a Heritage K-8 Charter School faculty member says in her letter of support that Mrs. Fulop is “... a valuable asset to our school and community.”

As a resident, this is a tragic situation. Essentially, as happened to many families under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the rules of the game were

By Mrs. FEINSTEIN:
S. 112. A bill for the relief of Denes Fulop and Gyorgyi Fulop; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today a private immigration relief bill to provide lawful permanent residence status to Denes and Gyorgyi Fulop, Hungarian nationals who have lived in California for more than 20 years. The Fulops are the parents of six U.S. citizen children. Today, they face deportation having exhausted all administrative remedies under our immigration system.

The Fulop’s story is a compelling one and one which I believe merits Congress’ consideration for humanitarian relief. The most poignant tragedy to affect this family occurred in May 2000, when the Fulops’ oldest child, Robert “Bobby” Fulop, an accomplished 15 year-old tennis player, died suddenly of a heart aneurism. Bobby was considered the shining star of his family.

That same year, their six-year-old daughter, Elizabeth, was diagnosed with moderate pulmonary stenosis, a potentially life-threatening heart condition and a frightening situation similar to Bobby’s. Not long ago, she successfully underwent heart surgery, but requires medical supervision to ensure her good health.

The Fulop’s youngest child, Matthew, was born seven weeks premature. He subsequently underwent several kidney surgeries and is still being closely monitored by physicians.

Compounding these tragedies is the fact that today the Fulops face deportation. They face deportation, in part, because in 1995 Mr. Fulop was detained in Hungary and remained there for more than 90 days. Under the pre-1996 immigration law, prior to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, their stay in Hungary would not have been a factor in their immigration case and they would have been eligible for adjustment of status to lawful permanent residents.

Indeed, in 1996, Mr. and Mrs. Fulop applied to the Immigration and Naturalization Service, INS, for permanent resident status. Due to large backlogs, the INS did not interview them until 1998. By the time their applications were considered, the new 1996 immigration law had taken effect. Given their one-time 90 day trip outside the United States, they were unlikely to be eligible for relief pursuant to the cancellation of removal provisions of the Immigration and Nationality Act.

One cannot help but conclude that had the INS acted on the Fulop’s application for relief from deportation in a timelier manner, they would have qualified for suspension of deportation under the pre-1996 law, given that they were long-term residents of the United States with U.S. Citizen children and many positive factors in their favor.

The irony of this situation is that the Fulops were gone from the United States for nearly five months in 1995 because they traveled to Hungary to help Mr. Fulop’s brother build his home. Mr. Fulop’s brother is handicapped and they went to help remodel his home.

The Fulops are good and decent people. Mr. Fulop is a masonry contractor and the owner and president of his own construction company—Sumeg International. He has owned this business for 10 full years and currently has three full-time employees.

The couple are active in their church and community. As Pastor Peter Petrovic of the Apostolic Christian Church of San Diego says in his letter of support, “[t]he family is an exceptional asset to their community.” Mrs. Fulop has served as a Sunday school teacher and volunteers regularly at Heritage K-8 Charter School in Escondido. Mrs. Moriones, a Heritage K-8 Charter School faculty member says in her letter of support that Mrs. Fulop is “... a valuable asset to our school and community.”

As a resident, this is a tragic situation. Essentially, as happened to many families under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the rules of the game were
changed in the middle. When the Fulops applied for relief from deportation they were eligible for suspension of deportation by the time the INS got around to their application, nearly three years later, they were no longer eligible and in fact suspension of deportation as a form of relief ceased to exist.

The Fulops today have been in the United States since the early 1980s. Most harmful is the effect that their deportation will have on the children, all of whom were born here and who range from one year old to 17 years of age. Their eldest, Dennis, is a 4.0 honor student at Palomar Community College having graduated from high school one year early. His sister, Linda, has a 3.8 grade point average and is an honor student in high school.

It is my hope that Congress sees fit to provide an opportunity for this family to remain together in the United States. For many years here, the profound sadness they have already experienced and the harm that would come from their deportation to their six U.S. citizen children.

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

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

S. 112

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

SEC. 1. ADJUSTMENT OF STATUS.

(a) In General.—Notwithstanding any other provision of law or any order, for the purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Denes Fulop and Gyorgy Fulop shall be deemed to have been lawfully admitted to, and remained in, the United States, and shall be eligible for issuance of an immigrant visa or for adjustment and naturalization under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255).

(b) APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply only if the applications for issuance of immigrant visas or the applications for adjustment of status are filed with appropriate fees within 2 years after the enactment of this Act.

(c) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of immigrant visas to Denes Fulop and Gyorgy Fulop, the Secretary of State shall instruct the proper officer to reduce by 2, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 202(e) or 203(a) of the Immigration and Nationality Act (8 U.S.C. 1152(e), 1153(a)), as applicable.

APOSTOLIC CHRISTIAN CHURCH
OF SAN DIEGO.
Escondido, CA, January 14, 2005.

Re the Denes Fulop Family.

To WHOM IT MAY CONCERN: My family and I have known Denes and Joy Fulop for many years. They have been members in good standing in our church for approximately 20 years. Denes has served the congregation faithfully in many capacities. He was a building committee member during the construction of our church 10 years ago. He also served as church treasurer for four years and Sunday School Superintendent for many years. Presently he is a member on the board of trustees.

Joy Fulop was a building sub-committee member during the construction of the church and also served for a few years as a Sunday school teacher. Joy is a devoted and experienced homemaker, and a wonderful example of a loving mother and wife. Their three younger children, Elizabeth, Sarah and Abigail are actively involved in Sunday school and other group activities.

The two oldest, Denny and Linda, are also active in the church. They are very diligent and excellent students in High School and outstanding citizens.

Dennis, Denny, and Linda are an exceptional asset to their community. Their family has never depended on any government aid, but rather contributes and shares their blessings with others. Denes, Joy, and their six children are truly an asset to our church community.

Should you have any further questions, please don't hesitate to contact me.

Respectfully submitted,

PETER PETROVIC,
Pastor,
HERITAGE K-8 CHARTER SCHOOL,
Escondido, CA, January 14, 2005.

DEAR MEMBERS OF CONGRESS, I am writing this letter on behalf of the Fulop Family. I want to express my deep appreciation for Mrs. Fulop's involvement at our elementary school.

Abigail Fulop is a successful kindergarten student in my grade level. Sarah and Elizabeth Fulop attend Heritage Charter as well and are outstanding students.

Mrs. Fulop volunteers on a regular basis in my kindergarten classroom helping students become better readers. She takes a reading group and works with reading strategies that enhance children's learning. She also takes time to volunteer in her daughter Sarah's class. Her time and effort fosters a learning environment. Recently she participated in a cooking demonstration for the class. She also takes time out of her busy schedule to help her daughter's third grade teacher plan and prepare for field trips.

In all these things I have confidence that she is a valuable asset to our school and community. Please consider supporting their desire to remain with us. I hope you feel free to contact me with any questions.

Sincerely,

MRS. MORRIS.

R. RIMMER CONSTRUCTION INC.,
Cardiff, CA, January 13, 2005.

To WHOM IT MAY CONCERN: The purpose of this letter is to describe my relationship with Dennis Fulop, whom I have known for approximately twenty-two years.

As a building contractor in the San Diego area I have been fortunate to have worked with Dennis for most of those years. He has constructed nearly all of the foundations for the room additions and new houses that I have built. Dennis has also reconstructed most of the driveways, sidewalks, retaining walls, fireplaces and masonry on my projects. He has also attended to much of my finish grading, drainage and backhoe construction needs.

Dennis has long been an invaluable member of my construction team. He is very knowledgeable in nearly all construction matters. He has always been very reliable and responsible in meeting deadlines and upholding high standards of construction quality.

Dennis is also a very successful small business owner. He has his own credit accounts with all of the necessary construction suppliers and to my knowledge has always paid his bills in a timely manner. In fact, I have never been contacted or liened by any of his suppliers to date. Dennis is also very proficient at managing and providing work for his employees.

Dennis's wife, Joy is a dedicated wife and mother to their six children.

I am very thankful to know the Fulop family personally and I can assure you they are truly deeply convicted to do what is right and deeply hold convictions that make them valuable contributors to their local community and society as a whole.

Sincerely,

RON RIMMER,
President.

By Mrs. FEINSTEIN: S. 113. A bill to modify the date as of which certain tribal land of the Lytton Rancheria of California is deemed to be held in trust; to the Committee on Indian Affairs.

Mr. President, I rise today to introduce legislation that would strike a small provision in the Omnibus Indian Advancement Act of 2000; language that circumvents the Indian Gaming Regulatory Act's common-sense provisions and safeguards against inappropriate siting of Nevada-style casinos.

In December 2000, a one-paragraph provision was attached to the Omnibus Indian Advancement Act taking land into trust for a single Indian tribe—the Lytton—with the aim of allowing the tribe to bypass the federal and state review process and expedite plans to establish a large, off-reservation gaming complex in an urban area near San Francisco. Most troubling, this provision included a clause which mandated that the Secretary of Interior backdate the acquisition of this land to October 17, 1988—despite the fact that the land was actually taken into trust in 2004. This backdating permitted the tribe to completely circumvent the Indian Gaming Regulatory Act's requirements for gaming on newly acquired lands and avoid an important consultative process prescribed in federal law.

Today California is home to 110 federally recognized tribes. Sixty-six tribes have gaming compacts with the state and there are 57 tribal casinos. With more than 50 tribes seeking federal recognition and approximately 25 recognized tribes seeking gaming compacts from the Governor, revenues from California's tribal gaming industry are expected to be the highest of any state's by the end of the decade. According to the latest statistics released by the National Indian Gaming Commission, in 2003 California by itself accounted for about half of the increase in gaming revenues nationwide.

Mr. President, I have serious reservations about the expansion of Nevada-style gaming—with its slot machines and in-house banking—into urban areas, and I am particularly concerned about offreservation gambling and "reservation shopping." Off-reservation casinos often cause counties additional costs in public and local services. They intrude on residential areas, and are responsible for an increase of traffic and crime within local communities.
That is why Section 20 of the Indian Gaming Regulatory Act requires that tribes complete a “two-part determination” process prior to engaging in Class III gaming on newly acquired, or offreservation lands. Under this law, tribes may conduct gaming on land acquired after October 17, 1988, must receive the approval of both the state Governor and the Secretary of the Interior. In addition, this process requires that the Secretary of the Interior, or his designees, consult with local communities and nearby tribes before making a final decision in these cases.

In August 2004, the Lytton tribe and the Governor of my state reached an agreement on a compact that would have permitted the tribe to construct a 6-story casino housing 5,000 slot machines. Notably, this would be the largest inventory of slot machines found in any casino outside of Connecticut. After the State Legislature balked at approving the deal, the Governor and the tribe agreed to put forward a revised compact that would allow for a 2,500 slot casino, while permitting the tribe to negotiate for additional slots in 2008. This latest proposal remains unratified by the State Legislature.

Mr. President, without this legislation, the Lytton tribe will be able to open a massive gambling complex in a metropolitan area outside the regulations set up by the Indian Gaming Regulatory Act. Allowing this to happen would set a dangerous precedent not only for California, but every state where tribal gaming is permitted.

The effect today is extremely limited. This legislation would not reverse restoration of the tribe. It would not infringe on Native American sovereignty. It does not affect the land acquisition or even block the casino proposed to be built outside of State and the local communities a voice in the process and ensure that gaming continues to be organized within the framework of the Indian Gaming Regulatory Act.

The Indian Gaming Regulatory Act has provided this Nation with a fair and balanced approach to Indian gaming by facilitating tribal plans for economic recovery without compromising a multitude of factors that should be taken into account when deciding on the siting of casinos. This law works. It is a fair process that should continue to be followed.

It is simply not asking too much to require that the Lytton be subject to the regulatory and approval processes applicable to newly acquired tribal lands by the Indian Gaming Regulatory Act.

I hope my colleagues will support this legislation and I look forward to working with the Chairman and Ranking Member of the Indian Affairs Committee to pass this legislation quickly.

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. 113
Be it enacted by the Senate and House of Representativereal of the United States of America in Congress assembled.

SECTION 1. LYTON RANCHERIA OF CALIFORNIA.
Section 819 of the Omnibus Indian Advancement Act (114 Stat. 2199) is amended by striking the last sentence.

By Mr. KERRY (for himself, Mr. KENNEDY, Mrs. MURRAY, Mr. LAUTENBERG, Mr. CORZINE, and Ms. CANTWELL):

S. 114. A bill to amend titles XIX and XXI of the Social Security Act to ensure that every uninsured child in America has health insurance coverage, and for other purposes; to the Committee on Finance.

Mr. KENNEDY. Mr. President, I'm honored to join my friends and colleagues, Senator KERRY, in introducing this legislation to guarantee affordable health insurance for every child. We made a good start toward this goal in the 1990s, by enacting the Children's Health Insurance Program to cover more low-income children. Now it is time to finish the job.

Twelve million Americans who are twenty-one years old or younger have no health insurance today. Seven million are eligible for Medicaid or CHIP, but five million are not eligible for these current programs.

Every uninsured child represents a national failure. Every uninsured child is at risk for losing the healthy start in life that should be birthright of every American. Every uninsured child is a potential source of heartbreak for parents and other loved ones. Every uninsured child is an American tragedy waiting to happen.

This year, three hundred eighty thousand children suffering from asthma will never see a doctor. Five hundred thousand children with recurrent earaches will never see a doctor. Five hundred thousand children with severe sore throats will never see a doctor. Uninsured children pay for their lack of coverage in human suffering, unnecessary disability, and even death, and our society pays too. Sick children cannot learn. Every child whose education is limited or whose future potential is lost because of avoidable illness is a loss to America, because America's children are America's future.

The legislation we are introducing today will guarantee coverage for every child twenty-one years of age or younger. It makes health insurance affordable for every family, but it also asks families to share the responsibility of covering their children, when they are able to do so.

The bill expands Medicaid and CHIP up to 300 percent of poverty. Families of moderate means will be able to obtain subsidized coverage for their children. Families with incomes above 300 percent of poverty will be able to buy into Medicaid or CHIP for their children, and they will be guaranteed that the cost will not exceed 5 percent of their family income.

The bill also lifts the cap on CHIP funding that has caused some States to limit enrollment. It assists States financially by shifting current State spending for children under 100 percent of poverty to the Federal government. It requires all States to adopt the proven methods that encourage families to enroll and stay enrolled—methods such as presumptive eligibility, the ability to apply on-line or by telephone for the coverage, and coverage for at least six months without eligibility redeterminations.

This legislation is vitally important to all children. It is a pledge that they will have access to good health care without regard to their family's wealth. It is a commitment to a healthy start in life for every child.

As important as those objectives are, the significance of this legislation goes beyond coverage of all children. It is a major step toward the day when the bar to health care for all is broken down. In a survey conducted in 2004 by the FBI and the Computer Security Institute, victims which have compromised the their family income.

The changes I seek today are extensions to the Medicaid-CHIP program—by adding supportive services, comprehensive health education, and presumptive eligibility for CHIP.

According to the 2004 Kaiser Commission’s National Survey of America’s Diversity of Health Coverage—because uninsured children are twice as likely to have a medical condition that requires emergency care, and that care is likely to be less effective than it would be if provided at a primary care setting, uninsured children are at greater risk for having higher costs and related reduced quality of care.

In addition, uninsured children have higher rates of certain conditions because uninsured children are more likely to be sick and have parents who would rather take time off work than spend the money for a doctor's visit, which results in less access to clinical care and lower quality of care. More recent research continues to highlight this data.

This bill would require Federal agencies, and persons engaged in interstate commerce, in possession of electronic data containing personal information, to disclose any unauthorized acquisition of such information, to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 115. A bill to require Federal agencies, and persons engaged in interstate commerce, in possession of electronic data containing personal information, to disclose any unauthorized acquisition of such information, to the Committee on the Judiciary.

Ms. FEINSTEIN. Mr. President, I rise to introduce the Notification of Risk to Personal Data Act of 2005. This legislation will require that individuals are notified when their most sensitive personal information is stolen from a corporate or government database. This is the second Congress in a row that I have introduced this legislation—it is time for us to pass it to give Americans the notice they need to protect themselves from identity thieves. Typically, the bill would require government or private entities to notify individuals if a data breach has compromised their Social Security number, driver’s license number, credit card number, debit card number or financial account numbers.

In most cases, if authorities know that someone is a victim of a crime, the victim is notified. But, that isn’t the case if an individual’s most sensitive personal information is stolen from an electronic database.

Measuring the problem of security breaches is difficult, because many companies never report breaches of their systems for fear that their reputation for securing data would be damaged. But, in a survey conducted in 2004 by the FBI and the Computer Security Institute, 52 percent of respondents reported some level of unauthorized use of their computer systems.

Data breaches are becoming all too common. Consider the following incidents which have compromised the
records of hundreds of thousands of Americans.

On January 10, 2005, George Mason University in Fairfax, Virginia notified 30,000 students that their names, photos and Social Security numbers were taken by an online intruder; (Source: Cnet news, “Hackers Steal ID Info from Virginia University,” Monday, January 11, 2005)

On August 30, 2004, a University of California database containing the personal information of 600,000 people was penetrated. The computer contained names, addresses, telephone numbers, dates of birth and Social Security numbers; (Source: Associated Press, August 31, 2004)

Already in the new year, cell phone carrier T-Mobile announced that a hacker broke into its database and accessed the names and Social Security numbers of 400 customers. (Source: Cnet news, “T-Mobile Had Limited Access” January 12, 2004)

Last year, San Diego State University reported that hackers broke into a server, gaining access to names and Social Security numbers for more than 178,000 former and current students, alumni and staff; (Source: San Francisco Chronicle, “Colleges Leaking Confidential Data,” April 5, 2004)

At the Georgia Institute of Technology, a hacker downloaded information that could have included names, addresses, phone numbers and credit card numbers for about 57,775 people; (Source: San Francisco Chronicle, “Colleges Leaking Confidential Data,” April 13, 2004)

Finally, in 2004, a Florida man and his employees hacked into Acxiom Corp.’s computer system for 16 months and stole large amounts of personal information. Christopher Way, a U.S. assistant attorney general, said then that the case represents “what may be the largest intrusion of personal data ever.” (Source: Arkansas Democrat-Gazette, “Hacker Accesses Load of Data from Acxiom,” July 22, 2004)

My home State of California has a similar data notification law, on which my bill today is modeled. But this sort of protection needs to be extended to all Americans.

I strongly believe Americans should be notified if a hacker gets access to their most personal data. This is both a matter of principle and a practical measure to curb identity theft.

Let me take a moment to describe the legislation.

The Notification of Risk to Personal Data Act will set a national standard for notification of consumers when a data breach occurs.

The legislation requires a business or government entity to notify an individual when there is a reasonable basis to conclude that a hacker or other criminal has obtained unencrypted personal data maintained by the entity.

Personal data is defined by the bill as an individual’s Social Security number, State identification number, driver’s license number, financial account number, or credit card number.

The legislation’s notification scheme minimizes the burdens on companies or agencies that must report a data breach. In general, notice would have to be provided to each person whose data was compromised in writing or through e-mail.

But there are important exceptions.

First, companies that have developed their own reasonable notification policies are given a safe harbor under the bill and are exempted from its notification requirements.

Second, encrypted data is exempted.

Third, where it is too expensive or impractical (e.g., contact address information is incomplete) to notify every individual who is harmed, the bill allows entities to send out an alternative form of notice called “substitute notice.” Substitute notice includes posting notice on a website or notifying major media. Substitute notice would be triggered if any of the following factors exist:

(i) the agency or person demonstrates that the cost of providing direct notice would exceed $250,000;
(ii) the affected class of subject persons to be notified exceeds 500,000; or
(iii) the agency or person does not have sufficient contact information to notify people whose information is at risk.

The bill has a tough, but fair enforcement regime. Entities that fail to comply with the bill will be subject to fines by the Federal Trade Commission of $5,000 per violation or up to $25,000 per day while the violation persists. State Attorneys General can also file suit to enforce the statute.

Additionally, the bill would allow California’s law to remain in effect, but preempt conflicting state laws. It is my understanding that legislators in a number of states are developing bills modeled after the California law. Reported, some of these bills have requirements that are inconsistent with the California legislation. It is not fair to put companies in a situation that forces them to comply with database notification laws of 50 different states.

A year after California’s landmark legislation went into effect, the law has raised overall awareness of the need to have strong privacy protections in place. Chris Jay Hoofnagle, associate director of the nonprofit Electronic Privacy Information Center, by saying “California law has given the public a window into a very serious problem of information security.”


As Beth Givens, director of the Privacy Rights Clearinghouse, points out “if [California] didn’t have this law, the vast majority of these situations would go unreported.” (Source: The Orange County Register, “Ingram Micro Discloses Database Break-In,” May 15, 2004)

I strongly believe individuals have a right to be notified when their most sensitive information is compromised—because it is truly their information. Ask the ordinary person on the street if he or she would like to know if a criminal had illegally gained access to their personal information from a database—the answer will be a resounding yes.

Enabling consumers to be notified in a timely manner of security breaches involving their personal data will help combat the growing scourge of identity theft. If individuals are informed of the theft of their Social Security numbers or other sensitive information, they can take immediate preventative action.

They can place a fraud alert on their credit report to prevent crooks from obtaining credit cards in their name;

They can monitor their credit reports to see if unauthorized activity has occurred;

They can cancel any affected financial or consumer or utility accounts; and

They can change their phone numbers if necessary.

I look forward to working with my colleagues to pass this vitally needed legislation. This bill will give ordinary Americans more control and confidence about the safety of their personal information. Americans will have the security of knowing that should a breach occur, they will be notified and be able to take protective action. Thank you, Mr. President.

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. 115

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Notification of Risk to Personal Data Act”.

SEC. 2. DEFINITIONS.

In this Act, the following definitions shall apply:

(A) means the compromise of the security, confidentiality, or integrity of computerized data that results in, or there is a reasonable basis to conclude has, the unauthorized acquisition of and access to personal information maintained by the person or business; and
(B) does not include good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business, if the personal information is not used or subject to further unauthorized disclosure.

(3) PERSON.—The term “person” has the same meaning given such term in section 551(1) of title 5, United States Code.

(4) PERSONAL INFORMATION.—The term “personal information” means an individual’s last name in combination with any 1 or more of the following elements, when either the name or the data elements are not encrypted:
SEC. 3. DATABASE SECURITY.

(a) DISCLOSURE OF SECURITY BREACH.—

(1) IN GENERAL.—Any agency, or person engaged in interstate commerce, that owns or licenses electronic data containing personal information shall, following the discovery of a breach of security of the system containing such data, notify any resident of the United States whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(2) NOTICE OF OWNER OR LICENSEE.— Any agency, or person engaged in interstate commerce, in possession of electronic data containing personal information that the agency does not own or license shall notify the owner or licensee of the information if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person through a breach of security of the system containing such data.

(3) TIMELINESS OF NOTIFICATION.—Except as provided in paragraph (4), all notifications required under subparagraph (1) or (2) shall be made as expeditiously as possible and without unreasonable delay following—

(A) the discovery by the agency or person of a breach of security of the system; and

(B) any measures necessary to determine the scope of the breach, prevent further disclosures, and restore the reasonable integrity of the data system.

(4) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—If a law enforcement agency determines that the notification required under this subsection would impede a criminal investigation, such notification may be delayed until such law enforcement agency determines that the notification will no longer compromise such investigation.

(5) METHODS OF NOTICE.—An agency, or person engaged in interstate commerce, shall be in compliance with this subsection if it provides the resident, owner, or licensee, as appropriate, with—

(A) the notification; and

(B) e-mail notice, if the person or business has an e-mail address for the subject person; or

(C) substitute notice, if—

(i) the agency or person demonstrates that the cost of providing direct notice would exceed $250,000;

(ii) the affected class of subject persons to be notified exceeds 500,000; or

(iii) the agency or person does not have sufficient contact information for those to be notified;

(6) ALTERNATIVE NOTIFICATION PROCEDURES.—Notwithstanding any other obligation under this subsection, an agency, or person engaged in interstate commerce, shall be deemed to be in compliance with this subsection if the agency or person—

(A) maintains its own reasonable notification policy for the treatment of personal information; and

(B) notifies subject persons in accordance with its information security policy in the event of a breach of security of the system.

(7) REASONABLE NOTIFICATION PROCEDURE.—The reasonableness of any notification with respect to a breach of security of the system involving personal information described in section 2(c)(6), the term “reasonable notification procedures” means procedures that—

(A) use a security program reasonably designed to block unauthorized transactions before they are charged to the customer’s account;

(B) provide for notice to be given by the owner or licensee of the database, or another party acting on behalf of such owner or licensee, for a program indicating that the breach of security of the system has resulted in fraud or unauthorized transactions, but does not necessarily require notice in other circumstances; and

(C) are subject to examination for compliance with the requirements of this Act by 1 or more Federal functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), with respect to the operation of the security program and the notification procedures.

(b) CIVIL REMEDIES.

(1) PENALTIES.—Any agency, or person engaged in interstate commerce, that violates this section shall be subject to a fine of not more than $50,000, to a maximum of $25,000 per day while such violations persist.

(2) EQUITABLE RELIEF.—Any person engaged in interstate commerce that violates, proposes to violate, or has violated this section may be enjoined from further violations by a court of competent jurisdiction.

(3) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subsection are cumulative and shall not affect any other rights and remedies available under law.

(c) ENFORCEMENT.—The Federal Trade Commission is authorized to enforce compliance with this section, including the assessment of fines under subsection (b)(1).

SEC. 4. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by a violation of this section or the operation of a security program, the attorney general may bring a civil action in compliance with this subsection if it proves to the attorney general’s reasonable satisfaction that the breach of security of the system has resulted in fraud or unauthorized transactions.

(2) EQUITABLE RELIEF.—In an action brought under subsection (a), the attorney general may seek, in addition to any other relief available, an order (A) to enjoin that practice; (B) to require a substitute notice, or other compensation on behalf of residents of the State; or (C) to obtain such other relief as the court may consider to be appropriate.

(3) CIVIL ACTIONS.—In an action brought under paragraph (1), the attorney general of a State involved to the extent that the breach of security of the system has resulted in fraud or unauthorized transactions may bring a civil action in compliance with this subsection if it proves to the attorney general’s reasonable satisfaction that the breach of security of the system has resulted in fraud or unauthorized transactions.

(b) CIVIL ACTIONS.—In an action brought under subsection (a), the attorney general may seek, in addition to any other relief available, an order (A) to enjoin that practice; (B) to require a substitute notice, or other compensation on behalf of residents of the State; or (C) to obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EFFECT.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(c) ATTORNEY GENERAL.—In an action brought under subsection (a), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the time the State attorney general files the action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), anything in this Act shall be construed to preclude an attorney general of a State from exercising the powers conferred on such attorney general by the law of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 5. EFFECT ON STATE LAW.

The provisions of this Act shall supersede any inconsistent provisions of law of any State or unit of local government relating to the notification of any resident of the United States of any breach of security of an electronic database containing such resident’s personal information (as defined in this Act), except as provided under sections 1798.82 and 1798.29 of the California Civil Code.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect on the expiration of the date which is 6 months after the date of enactment of this Act.

By Mrs. FEINSTEIN:

S. 116. A bill to require the consent of an individual prior to the sale and marking of such individual’s personally identifiable information, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased to re-introduce the “Privacy Act of 2005.”

This legislation would establish, for the first time, a comprehensive national system of privacy protection. This is the second Congress in a row that I have introduced this legislation. Every year that we wait, more Americans become victims of identity theft. It is time for us to act.

As you know, Mr. President, I have ardently fought for years for legislation to hamper identity theft. Today, this legislation is one of three bills that I am introducing to continue that fight. I am also introducing the Social Security Number Misuse Prevention Act of 2005, and the Notification of Breach of Personal Data Act of 2005. I urge my colleagues to pass all of them, to protect Americans from those who would steal our most intimate identities.

At the heart of this bill is the requirement that companies may not sell consumers’ most intimate personal information unless consumers affirmatively give their authorization. This is known as “opt-in.” Therefore, companies must obtain consumers’ written consent prior to selling their personal health information, financial information, Social Security number, and drivers’ license data (opt-in). For this sensitive data, the bill gives the individual ultimate control over whether
or not his or her information is shared. If an individual does not actively decide to permit sharing of personal data, the data is not disclosed.

The bill recognizes that different sorts of information deserve different levels of protection. For information that is that personal, but not as intimate, the bill allows businesses more flexibility. Therefore, for other personal information—names, physical addresses, e-mail addresses, telephones, photographs, birth dates, places of birth, and Social Security numbers—companies can sell the information so long as consumers receive notice of the companies’ intent, and an opportunity to object and prohibit the sale of their information. This is known as "opt-out." That is structure of the overall bill. Let me take a moment to go over some of the specifics.

For financial data, the Privacy Act would tighten the information-sharing provisions of the Gramm-Leach-Bliley Act. This legislation would modify that statute, to prohibit the sale or disclosure of sensitive personal financial information to third parties unless the consumer affirmatively consents or opts in. The legislation would also require that banks let consumers opt out of the sharing of their personal financial information with the bank's affiliates or joint partners. The bill makes exceptions for vital public safety concerns. The Privacy Act of 2005 also prohibits banks from denying a customer a financial product or financial service if the consumer withholds consent.

For sensitive medical information, this legislation would expand on the Department of Health and Human Services privacy regulations, by extending the restrictions placed on "covered entities" (health insurers, health providers, and health care clearinghouses) to "non-covered entities" (business associates, health researchers, schools or universities, and life insurers). All of those entities will be able to share information only with the patients' consent.

For Social Security numbers, this bill will prohibit the sale or display of an individual’s Social Security number to the general public without the individual’s express consent, and prohibit federal, state, and local governments from displaying the numbers on the Internet, or from printing them on checking or credit cards. This legislation also recognizes legitimate uses of Social Security numbers, by allowing the sale of Social Security numbers between businesses, or between the government and businesses, among other exceptions.

This legislation protects the privacy of information regardless of the medium through which it is collected. Therefore, it recognizes that both paper and electronic records are important to protecting the identities of Americans.

To minimize the regulatory burden of these privacy rules, the bill sets up a safe harbor so that industries established approved policies will be exempt from some regulatory requirements of the legislation.

To ensure uniformity of the laws across all 50 states, the bill preempts inconsistent state laws regarding the treatment of non-sensitive information.

I note that this legislation is modeled on the California Financial Information Privacy Act, which gives consumers the right to use this information to only consent before financial companies share their most intimate data. The plan is a good one for Californians, and it is a good one for all Americans. The fact that the California law is under assault in the courts makes it all the more vital that the uniform, national standard I introduce today becomes law.

I want to give a sense of why this legislation is so necessary. Recent statistics on the growth of identity theft show we have no time to waste in protecting our people.

For years, identity theft has topped the list of complaints reported to the Federal Trade Commission. In 2003, the Commission received over half a million such complaints, about 42 percent of all complaints. While the FTC will not report its numbers for 2004 until early February, I unfortunately expect to again see identity theft as the cause of the most complaints.

According to a report from the FTC, 10 million Americans discovered that year their identities had been stolen. The report also stated that consumers have to spend an average of 30 hours to clear their name; The Identity Theft Resource Center puts the number at 175 hours. And as Attorney General John Ashcroft said last August, "Identity theft costs the nation's businesses nearly $50 billion a year in fraudulent transactions and often involves coordinated criminal conduct."

My own State, California, has more victims of identity theft than any other state. The FTC recorded 34,452 complaints of identity theft cases in 2003 in California alone.

But the numbers tell only part of the story. More important are the individual people whose lives have been devastated by identity theft. Let me tell just one story that I find particularly disturbing:

Eric Drew was a patient in a hospital receiving a bone marrow transplant. Yet unbeknownst to him, a worker in the hospital had stolen Drew's identity, and had taken advantage of this sick patient. As the Associated Press reported, "Drew said that while he was lying in a hospital bed, dying from cancer and weak from massive doses of chemotherapy, he began to get mail thanking him for opening accounts he knew nothing about." In this case, luckily, the criminal was caught and convicted.

Since I introduced this legislation for the first time in the 108th Congress, there are millions more stories like this one.

Indeed, there are also new common methods of identity theft. There has been a massive upswing in the phenomenon known as “Phishing,” in which criminals send emails to people, spoofed to fraudulently look like banks and other financial institutions. These emails may be to consumers to click on a Web page, and then to enter their name, account numbers, passwords, and other sensitive financial information. The criminals then use this information to log onto the websites to steal from the unwitting consumers, but to literally lock them out of their own accounts. This one sort of identity theft has, according to a December study from e-mail security company MessageLabs, increased by almost tenfold over the last year.

Given the grave risks that technology poses to our privacy, it is our responsibility to start taking action. This is especially the case for older Americans, who are disproportionately vulnerable to identity theft, as I tried to highlight last year by cosponsoring the “Protecting Older Americans From Fraud Month” resolution last October.

I would like to highlight some of the key provisions of the legislation.

For financial information this legislation tightens the privacy provisions of the Financial Services Modernization Act, commonly known as the Gramm-Leach-Bliley Act. Under Gramm-Leach-Bliley, a bank can share a customer’s personal information with other companies as long as it gives consumers notice and the right to opt out of the data sharing.

The problem with the prevailing opt-out is that most people throw away their privacy notices from banks along with the rest of the unrelenting pile of commercial solicitations they receive. Since the passage of Gramm-Leach-Bliley, banks have sent out over one billion privacy notices.

According to available published information, fewer than 5 percent of bank customers have opted out of sharing their personal information and for many financial institutions, the response rate has been less than one percent.

Accordingly, this legislation prohibits the sale or disclosure of sensitive personal financial information to third parties unless the consumer affirmatively consents or opts in—the burden thus shifts off of the consumer.

This legislation also toughens Federal financial privacy laws for affiliate-sharing and joint-marketing. An affiliate is a company that is linked by common ownership with another company. Under Federal law, a bank can share with affiliates or joint marketing partners the personal financial information a consumer wants this information shared.

This legislation would require that banks give consumers the option of opting out of the sharing of their personal financial information with the bank’s affiliates or joint partners. I would also like to describe several other key components of the financial privacy section.
The bill prohibits banks from denying a customer a financial product or financial service just because the customer chooses to not disclose his personal information to third parties, affiliates, or joint venture partners. However, banks will allow bill discounts or other incentives to customers to encourage them to permit the sharing of their personal information.

Additionally, the bill permits banks to disclose, but not sell, personal information for vital public interest purposes such as identifying or locating missing and abducted children, witnesses, criminals and fugitives, parents delinquent in child support payments, organ and bone marrow donors, pension fund beneficiaries, and missing heirs.

Just as with financial data, personal health and medical data deserves the same level of privacy. The recently adopted Department of Health and Human Services privacy regulations set a basic opt-in framework for disclosure of health information. But more can be done to protect patient privacy.

The regulations only prohibit “covered entities”—namely health insurers, health providers, and health care clearingshouse—from selling a patient’s health information without that patient’s prior consent.

Meanwhile, non-covered entities—such as business associates, health researchers, schools or universities, and life insurers—are not subject to this opt-in requirement, except through contractual arrangements.

This legislation would preserve the privacy of health information wherever the information is sold. Any business associate, life insurer, school or non-covered entity trying to sell or market protected health information would, like covered entities, have to get the patient’s prior consent. This is a crucial step to protect what is truly our most intimate information.

Driver’s license data also are given the strongest level of protection under this bill.

The Driver’s Privacy Protection Act, DPPA was amended in 2000 to offer some meaningful protections for drivers’ privacy.

For example, under the DPPA, a State Department of Motor Vehicles must obtain the prior consent (opt-in) of the driver before “highly sensitive information” is defined as a physical copy of a driver’s license, a Social Security number, medical or disability information, and other information can be disclosed to a third party.

However, loopholes remain. Other sensitive information found on a driver’s license requires equal protection. This legislation would expand the definition of “highly sensitive information” to include a physical copy of a driver’s license, the driver identification number, birth date, information on the driver’s physical characteristics and any biometric identifiers, such as a fingerprint, that are found on the driver’s license.

Thus, this bill would ensure consumers have control over how their motor vehicle records and driver’s license data are used.

I would like to take a moment to highlight the Social Security number section of this legislation. I have also introduced as a stand-alone bill, the “Social Security Number Misuse Prevention Act of 2005.”

It is crucial to protect Social Security numbers because Social Security numbers are the key to a person’s identity. Many identity theft cases start with the theft of a Social Security number. Once a thief has access to a victim’s Social Security number, it is only a short step to acquiring credit cards, driver’s licenses, or other crucial identification documents.

This legislation bars the sale or display of Social Security numbers to the public except in a very narrow set of circumstances. In general display or sale is permitted only if the Social Security number functions only as an identifier, is not sold, or if there are compelling public safety needs. Government entities will have to redact Social Security numbers from electronic records that are readily available to the public on the Internet. State governments will no longer be permitted to use the Social Security number as the default driver’s license number.

The legislation, however, recognizes that some industries rely on Social Security numbers for certain transactions.

Thus, the bill directs the Attorney General to develop regulations allowing for the sale or purchase of Social Security Numbers to facilitate business-to-business and business-to-government transactions, so long as businesses put appropriate safeguards in place and do not permit public access to the number.

This legislation codifies steps Congress can take to help protect citizens from identity thieves and other predators of personal information. It restores to an individual more control over her most sensitive personal information, such as Social Security numbers, health information, and financial information. It also sets reasonable guidelines for businesses that handle our personal information every day. Every American has a fundamental right to privacy, no matter how fast our technology grows or changes.

Last year, President Bush signed into law the Identity Theft Penalty Enhancement Act, legislation that I helped to write, to increase punishment on people who steal others’ identities. I am proud of my work to make that bill into a law. But we all must realize that punishment is no substitute for prevention. My legislation today will make fewer suffer from identity theft in the first place.

I look forward to working with my colleagues to enact this legislation. I ask unanimous consent that the text of the legislation be printed in the RECORD.
SEC. 101. ENFORCEMENT.

(a) In general.—In accordance with the provisions of this section, the Federal Trade Commission may issue regulations requiring that such department or agency provide notice of failure to comply with such section prior to any action being taken against such recipient, and renew or obtain a determination be made prior to any action being taken against such recipient that compliance cannot be secured by voluntary means.

(b) Federal financial assistance.—The term "Federal financial assistance" means assistance through a grant, cooperative agreement, loan, or contract other than a contract of insurance or guaranty.

SEC. 103. SAFE HARBOR.

A commercial entity may not be held to have violated any provision of this title if such entity complies with self-regulatory guidelines that—

(A) are issued by seal programs or representatives of the marketing or online industries or by any other person; and

(2) are approved by the Federal Trade Commission, after public notice-comment has been received on such guidelines by the Commission, as meeting the requirements of this title.

SEC. 104. DEFINITIONS.

In this title:

(1) COMMERCIAL ENTITY.—The term "commercial entity"—

(A) means any person offering products or services involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the regulation of which the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; and

(B) does not include—

(i) any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45); or

(ii) any financial institution that is subject to title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.); or

(iii) any group health plan, health insurance issuer, or other entity that is subject to section 2204 of the Public Health Service Act (42 U.S.C. 262 note). Nothing in this title affects the jurisdiction, powers, and duties of any other person or agency.

(2) MARKETING.—The term "marketing" means to make a communication about a product or service in which is intended to affect the probability or the enforceability of any provision of, or any amendment made by—

(A) the Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6501 et seq.); or

(B) title V of the Gramm-Leach-Bliley Act; or

(C) the Health Insurance Portability and Accountability Act of 1996; or

(D) the Fair Credit Reporting Act.

(3) P E R S O N A L L Y I D E N T I F I A B L E I N F O R M A T I O N .—The term "personally identifiable information" means individually identifiable information about an individual, including oral, written, and online communications received from a commercial entity.

(4) STATE OF THE ART.—The term "state of the art" means the current state of technology regarding the collection or use of personally identifiable information.

(b) P E R S O N A L L Y I D E N T I F I A B L E I N F O R M A T I O N .—The term "personally identifiable information" means individually identifiable information about an individual that is collected, maintained, used or sold as described in subsection (a).

(c) O P T - O U T .—The term "opt-out" means an affirmative action by a consumer to prevent such entity from collecting or using such information.

(d) P E R S O N A L L Y I D E N T I F I A B L E I N F O R M A T I O N .—The term "personally identifiable information" means individually identifiable information about an individual, including oral, written, and online communications received from a commercial entity.

(e) STATE OF THE ART.—The term "state of the art" means the current state of technology regarding the collection or use of personally identifiable information.
B. a home or other physical address, including the street name, zip code, and name of a city or town;
C. an e-mail address;
D. a phone number;
E. a photograph or other form of visual identification;
F. a birth date, birth certificate number, or place of birth for that person;
G. information concerning the individual that is combined with any other identifier in this paragraph.

The term ‘display,’ ‘sale,’ and ‘purchase’ mean the exchange of such information for anything of value, directly or indirectly, including the licensing, bartering, or renting of such information.

The term ‘writing’ means writing in either a paper-based or computer-based form, including electronic and digital signatures.

Preemption of State and Local Law

The provisions of this title shall supersede any statutory and common law of States and their political subdivisions insofar as that law may now or hereafter relate to the collection or disclosure of personally identifiable information for marketing purposes; and

The term ‘pretext’ means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or any other territory or possession of the United States.

Sections 201 and 202 shall prohibit or limit the display, sale, or purchase of social security numbers as permitted under title V of the Gramm-Leach-Bliley Act, or for the purposes of affiliate sharing as permitted under the Fair Credit Reporting Act, except that no entity regulated under such Acts may make social security numbers available to the general public, as may be determined by the appropriate regulators under such Acts. For purposes of this title, the term ‘social security numbers’ includes the Social Security Numbers available to the general public, as may be determined by the appropriate regulators.

Effective Date

This title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.

Title II—Social Security Number Misuse Prevention

Findings

Congress makes the following findings:

(1) The inappropriate display, sale, or purchase of social security numbers has contributed to a growing range of illegal activities, including fraud, identify theft, and, in some cases, stalking and other violent crimes.

(2) While financial institutions, health care providers, and other entities have often used social security numbers to confirm the identity of an individual, the general display to the public, sale, or purchase of these numbers has been used to commit crimes, and also to result in serious invasions of individual privacy.

(3) The Federal Government requires virtually every individual in the United States to obtain a social security number in order to pay taxes, to qualify for social security benefits, or to seek employment. An unintended consequence of these requirements is that social security numbers have become one of the tools that can be used to facilitate crime, fraud, and invasions of the privacy of the individuals to whom the numbers are assigned. Because the Federal Government created and maintains this system, and because the Federal Government does not permit individuals to exempt themselves from the requirements, it is appropriate for the Federal Government to take steps to stem the abuse of social security numbers.

(4) The display, sale, or purchase of social security numbers in no way facilitates uninhibited, robust, and wide-open public debate, and restrictions on such display, sale, or purchase would not affect public debate.

(5) No one should seek to profit from the display, sale, or purchase of social security numbers in circumstances that create a substantial risk of physical, emotional, or financial harm to the individuals to whom those numbers are assigned.

(6) Consequently, this title provides each individual the authority to request that a social security number some degree of protection from the display, sale, and purchase of that number in any circumstance that might facilitate unlawful conduct.

Prohibition of the Display, Sale, or Purchase of Social Security Numbers

(a)(1) In General.—The term ‘display’ means transfer of personally identifiable information for marketing purposes; and

(2) the collection and sale of personally identifiable information.

(b)(1) I N GENERAL .—The term ‘person’ means any State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, and any territory or possession of the United States.

(2) For the purposes of this section, the term ‘person’ means an individual, partnership, corporation, trust, estate, cooperative, association, or any other entity.

(3) PURCHASE.—The term ‘purchase’ means providing directly or indirectly, anything of value in exchange for a social security number in any State of the United States, the District of Columbia, the Northern Mariana Islands, the United States Virgin Islands, Guam, and any territory or possession of the United States.

SEC. 203. APPLICATION OF PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS TO PUBLIC RECORDS.

(a) PUBLIC RECORDS EXCEPTION.—

(1) In General.—The Attorney General shall conduct a study and prepare a report on all of the uses of social security numbers permitted, required, authorized, or excused under any Federal law, and shall include a detailed description of the uses allowed as of the date of enactment of this Act and shall evaluate whether such uses should be continued or discontinued by appropriate legislative action.

(2) Report.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall report to Congress findings under this subsection. The report shall include such recommendations for legislation based on criteria the Attorney General determines to be appropriate.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and if the final regulations promulgated under section 5 are published in the Federal Register on or before the date of enactment of this Act, the regulations shall apply on or after the date of such publication.

SEC. 204. PROHIBITION ON THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS TO PRIVATE RECORDS.

(a) PUBLIC RECORDS EXCEPTION.—

(1) In General.—Section 1028A shall apply to public records containing social security numbers.

(2) Definition.—In this section, the term ‘public record’ means any governmental record that is made available to the general public.

(3) B. Exempt as provided in subsection (c), (d), or (e) of title 18.

(c) SUBMISSION TO THE ATTORNEY GENERAL.—The Attorney General shall ensure that such record is not included in a public record unless it is submitted in accordance with subsection (b) of this section.

(d)下來を参照。
‘(2) EXCEPTION FOR GOVERNMENT ENTITIES ALREADY PLACING PUBLIC RECORDS ON THE INTERNET OR IN ELECTRONIC FORM.—Not later than 60 days after the date of enactment of this Act, the Attorney General shall determine whether the record categories that pertain to public records maintained by the Federal, State, local governments, or on behalf of a government entity prior to the date of enactment of this Act, the regulations will determine which individual records within categories of records of those government entities, if any, may continue to be posted on the Internet or in electronic form prior to such effective date of this section. In promulgating these regulations, the Attorney General may include in the regulations a set of procedures for implementing the regulations and shall consider the following:

(A) The cost and burden of technology available to a governmental entity to redact social security numbers from public records, including criminal activities, compromised personal privacy, or threats to homeland security;

(B) The costs or burden to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments if the Attorney General determines that section 1028A should apply to such records.

(C) In the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments if the Attorney General determines that section 1028A should apply to such records.

(d) HAYRED SOCIAL SECURITY NUMBERS.—Section 1028A(b) shall apply to any public record of a record that contains social security numbers extracted from other public records for the purpose of displaying or selling such numbers to the general public.

(e) ATTORNEY GENERAL RULEMAKING ON PAPER RECORDS.—(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Attorney General shall determine the feasibility and advisability of applying section 1028A(b) to paper records listed in part 2 of the regulations and shall consider the following:

(A) The text or burden of the document or other public record on the face of any driver license or motor vehicle registration or any other document issued by the Commissioner of Social Security (or political subdivision thereof), in the administration of any driver’s license or motor vehicle registration law within its jurisdiction, from using a social security account number of any individual’s social security number.

(a) IN GENERAL.—Except as provided in subsection (b), the Attorney General may prescribe such rules and regulations as the Attorney General deems necessary to carry out the provisions of section 1028A(a)(5) of title 18, United States Code (as added by section 202(a)(2)).

(b) DISPLAY, SALE, OR PURCHASE RULEMAKING WITH RESPECT TO INTERACTIONS BETWEEN PERSONS, ORGANIZATIONS, OR BUSINESSES AND GOVERNMENT.—(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall determine whether the record categories that contain social security numbers, including criminal activities, compromised personal privacy, or threats to homeland security;

(c) EFFECTIVE DATE.—The prohibition with respect to violations of section 205(c)(2)(C)(x) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(x)), as added by section 202(a)(2)), is amended by inserting after the provisions of section 1028B(b) of title 18, United States Code (as added by section 202(a)(2)):

(1) IN GENERAL.—Except as provided in subsection (b), the Attorney General may prescribe such rules and regulations as the Attorney General deems necessary to carry out the provisions of section 1028A(a)(5) of title 18, United States Code (as added by section 202(a)(2)).

(b) DISPLAY, SALE, OR PURCHASE RULEMAKING WITH RESPECT TO INTERACTIONS BETWEEN PERSONS, ORGANIZATIONS, OR BUSINESSES AND GOVERNMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall prescribe such rules and regulations as the Attorney General deems necessary to promulgate regulations to implement and clarify the uses occurring as a result of an interaction between businesses, government or business any record of a category of records of these government entities, if any, may continue to be posted on the Internet or in electronic form prior to such effective date of this section.

In promulgating these regulations, the Attorney General may include in the regulations a set of procedures for implementing the regulations and shall consider the following:

(A) The cost and burden of technology available to a governmental entity to redact social security numbers from public records, including criminal activities, compromised personal privacy, or threats to homeland security;

(B) The costs or burden to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments if the Attorney General determines that section 1028A should apply to such records.

(C) In the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments if the Attorney General determines that section 1028A should apply to such records.

(d) HAYRED SOCIAL SECURITY NUMBERS.—Section 1028A(b) shall apply to any public record of a record that contains social security numbers extracted from other public records for the purpose of displaying or selling such numbers to the general public.

(e) ATTORNEY GENERAL RULEMAKING ON PAPER RECORDS.—(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Attorney General shall determine the feasibility and advisability of applying section 1028A(b) to paper records listed in part 2 of the regulations and shall consider the following:

(A) The text or burden of the document or other public record on the face of any driver license or motor vehicle registration or any other document issued by the Commissioner of Social Security (or political subdivision thereof), in the administration of any driver’s license or motor vehicle registration law within its jurisdiction, from using a social security account number of any individual’s social security number.

(a) IN GENERAL.—Except as provided in subsection (b), the Attorney General may prescribe such rules and regulations as the Attorney General deems necessary to carry out the provisions of section 1028A(a)(5) of title 18, United States Code (as added by section 202(a)(2)).

(b) DISPLAY, SALE, OR PURCHASE RULEMAKING WITH RESPECT TO INTERACTIONS BETWEEN PERSONS, ORGANIZATIONS, OR BUSINESSES AND GOVERNMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall determine whether the record categories that contain social security numbers, including criminal activities, compromised personal privacy, or threats to homeland security;

(c) EFFECTIVE DATE.—The prohibition with respect to violations of section 205(c)(2)(C)(x) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(x)), as added by section 202(a)(2)), is amended by inserting after the provisions of section 1028B(b) of title 18, United States Code (as added by subsection (a)(1)):

(A) The text or burden of the document or other public record on the face of any driver license or motor vehicle registration or any other document issued by the Commissioner of Social Security (or political subdivision thereof), in the administration of any driver’s license or motor vehicle registration law within its jurisdiction, from using a social security account number of any individual’s social security number.

(a) IN GENERAL.—Except as provided in subsection (b), the Attorney General may prescribe such rules and regulations as the Attorney General deems necessary to carry out the provisions of section 1028A(a)(5) of title 18, United States Code (as added by section 202(a)(2)).

(b) DISPLAY, SALE, OR PURCHASE RULEMAKING WITH RESPECT TO INTERACTIONS BETWEEN PERSONS, ORGANIZATIONS, OR BUSINESSES AND GOVERNMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall determine whether the record categories that contain social security numbers, including criminal activities, compromised personal privacy, or threats to homeland security;

(c) EFFECTIVE DATE.—The prohibition with respect to violations of section 205(c)(2)(C)(x) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(x)), as added by section 202(a)(2)), is amended by inserting after the provisions of section 1028B(b) of title 18, United States Code (as added by section 202(a)(2)):
number for an internal use or to link with the database of an agency of another State that is responsible for the administration of any driver’s license or motor vehicle registration law.

(2) Effective date.—The amendments made by this subsection shall apply with respect to licenses, registrations, and other documents or requisites after the date that is 1 year after the date of enactment of this Act.

(c) Prohibition of Inmate Access to Social Security Account Numbers.—

(1) In General.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by subsection (b)) is amended by adding at the end the following:

"(xii) No Federal, State, or local agency may employ, or enter into a contract for the use of, prisoners in a capacity that would allow such prisoners access to the social security account numbers of other individuals. For purposes of this clause, the term ‘prisoner’ means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual’s conviction of a criminal offense.

(2) Effective date.—The amendment made by this subsection shall apply with respect to employment of prisoners, or entry into contracts for the use of prisoners in a capacity that would allow such prisoners access to the social security account numbers of other individuals. For purposes of this clause, the term ‘prisoner’ means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual’s conviction of a criminal offense.

SEC. 206. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

(a) In General.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

"SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

"(a) In General.—A commercial entity may not require an individual to provide the individual’s social security number when purchasing a commercial good or service or deny an individual the good or service for refusing to provide that number except—

"(1) for any purpose relating to—

"(A) obtaining a consumer report for any purpose permitted under the Fair Credit Reporting Act;

"(B) a background check of the individual conducted by a landlord, lessor, employer, voluntary service agency, or other entity as determined by the Attorney General;

"(C) law enforcement;

"(D) the Federal, State, or local law requirement; or

"(2) if the social security number is necessary to verify the identity of the consumer to effect, administer, or enforce the specific transaction requested or authorized by the consumer, or to prevent fraud.

"(b) Application of Civil Money Penalties.—This section shall be deemed to be a violation of section 1129A(a)(3)(F).

"(c) Application of Criminal Penalties.—A violation of this section shall be deemed to be a violation of section 206(a)(8).

"(d) Limitation On Class Actions.—No class action alleging a violation of this section shall be maintained under this section by an individual or any private party in Federal or State court.

"(e) State Attorney General Enforcement.—

"(1) In General.—

"(A) Civil Actions.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person, that person’s failure that is prohibited under this section, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

"(i) enjoin that practice;

"(ii) obtain disclosure with such section; (iii) obtain damages, restitution, or other compensation on behalf of residents of the State; or

"(iv) obtain such other relief as the court may consider appropriate.

"(B) Notice.—

"(i) In General.—Before filing an action under subparagraph (A), the attorney general of the State involved shall provide to the Attorney General—

"(I) written notice of the action; and

"(II) a copy of the complaint for the action.

"(ii) Exemption.—

"(I) In General.—Clause (i) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

"(III) Notification.—With respect to an action described in subclause (I), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the same time as the State attorney general files the action.

"(2) Intervention.—

"(A) In General.—On receiving notice under paragraph (1)(B), the Attorney General shall have the right to intervene in the action that is the subject of the notice.

"(B) Effect of Intervention.—If the Attorney General intervenes in the action under paragraph (1)(B), the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

"(C) Construction.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

"(A) conduct investigations;

"(B) administer oaths or affirmations; or

"(C) compel the attendance of witnesses or the production of documentary and other evidence.

"(4) Actions by the Attorney General of the United States.—In any case in which an action is brought under paragraph (3) or (4) of title 18, the Attorney General for violation of a practice that is prohibited under this section, no State may, during the pendency of that action, institute a civil action under paragraph (1) against any defendant named in the complaint in that action for violation of that practice.

"(5) Venue; Service of Process.—

"(A) Venue.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

"(B) Service of Process.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

"(i) is an inhabitant; or

"(ii) may be found.

"(C) Sunset.—This section shall not apply on or after the date that is 6 years after the effective date of this section.

"(6) Evaluation.—Not later than the date that is 6 years and 6 months after the date of enactment of this Act, the Attorney General shall make a report to the chairman of the Federal Trade Commission, shall issue a report evaluating the effectiveness and efficiency of section 1150A of the Social Security Act, and shall make recommendations to Congress as to any legislative action determined to be necessary or advisable with respect to such section, including a recommendation regarding whether to reauthorize such section.

"(7) Effective Date.—The amendment made by subsection (a) shall apply to requests to provide a social security number occurring after the date that is 1 year after the date of enactment of this Act.

SEC. 207. EXTENSION OF CIVIL MONETARY PENALTIES FOR MISUSE OF A SOCIAL SECURITY NUMBER.

(a) Treatment of Withholding of Material Facts.—

"(1) Civil Penalties.—The first sentence of section 1129A(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

"(A) by striking ‘‘who’’ and inserting ‘‘who, or’’;

"(B) by striking ‘‘makes’’ and all that follows through ‘‘shall be subject to’’ and inserting the following:

"(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

"(B) makes such a statement or representation for such use with knowing disregard for the truth; or

"(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to—

"(i) a civil penalty of such amount as the Attorney General determines to be necessary or advisable with respect to such section, including a recommendation whether to reauthorize such section.

"(2) Administrative Procedure for Imposing Civil Penalties.—The first sentence of section 1129A(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

"(A) by striking ‘‘who’’ and inserting ‘‘who, or’’;

"(B) by striking ‘‘makes’’ and all that follows through ‘‘shall be subject to’’ and inserting the following:

"(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

"(B) makes such a statement or representation for such use with knowing disregard for the truth; or

"(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to—

"(i) a civil penalty of such amount as the Attorney General determines to be necessary or advisable with respect to such section, including a recommendation whether to reauthorize such section.

This section shall not apply to any matter that arises in that action.
(b) APPLICATION OF CIVIL MONEY PENALTIES TO ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a-8(a)), as amended by subsection (a)(1)(A), is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by redesigning the last sentence of paragraph (2) and inserting such paragraph after paragraph (1); and

(3) by inserting after paragraph (2) (as so redesignated) the following:

"(3) Any person (including an organization, agency, or other entity) who—

(A) uses a social security account number that such person knows or should know has been obtained by the Commissioner of Social Security (in an exercise of authority under section 205(c)(2) to establish and maintain records) on the basis of false information furnished to the Commissioner by any person;

(B) falsely represents a number to be the social security account number assigned by the Commissioner of Social Security to any individual, when such person knows or should know that such number is not the social security account number assigned by the Commissioner to such individual;

(C) issues a social security card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;

(D) knowingly displays, sells, or purchases a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to display, purchase, or sell it;

(E) counterfeits a social security card, or possesses a counterfeit social security card with intent to display, sell, or purchase it;

(F) compels the disclosure of, or knowingly displays, sells, or purchases the social security account number of any person in violation of the laws of the United States;

(G) with intent to deceive the Commissioner of Social Security as to such person's true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner with respect to any information required by the Commissioner in connection with the issuance and maintenance of the records provided for in section 205(c)(2); or

(H) offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, a social security account number or a number which purports to be a social security account number; or

(1) being an officer or employee of a Federal, State, or local agency, in possession of any individual's social security account number, willfully acts or fails to act so as to cause a violation by such agency of clause (vi)(II) or (x) of section 205(c)(2)(C), shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each violation, and shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such violation, of not more than twice the amount of any benefits or payments paid as a result of such violation.

(c) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(b)(3)(A) of the Social Security Act (42 U.S.C. 1320a-8(e)(2)(B)) is amended by striking "‘charging fraud or false statement’".

(d) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of the Social Security Act (42 U.S.C. 1320a-8(e)(2)(B)) is amended by striking "charging fraud or false statement’’.

(2) Section 1129(c)(1) of the Social Security Act (42 U.S.C. 1320a-8(c)(1)) is amended by striking "and representations" and inserting ", representations, or actions.

(3) Section 1129(c)(1)(A) of the Social Security Act (42 U.S.C. 1320a-8(e)(1)(A)) is amended by striking "statement or representation referred to in subsection (a) was made" and inserting "statement or representation occurring.’’

(4) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to violations of sections 1129 and 1129A of the Social Security Act (42 U.S.C. 1320-8 and 1320a-8a), as amended by subsection (a), committed after the date of enactment of this Act.

(2) VIOLATIONS BY GOVERNMENT AGENCIES IN POSSESSION OF SOCIAL SECURITY NUMBERS.—Section 1129(a)(3)(A) of the Social Security Act (42 U.S.C. 1320a-8(a)(3)(A)), as added by subsection (b), shall apply with respect to violations of that section occurring on or after the effective date described in section 202(c).

SEC. 208. CRIMINAL PENALTIES FOR THE MISUSE OF A SOCIAL SECURITY NUMBER.

(a) PROHIBITION OF WRONGFUL USE AS PERSONAL IDENTIFICATION NUMBER.—No person may obtain any individual's social security account number other than by sub- stituting an individual with the intent to physically injure, harm, or use the identity of the individual for any illegal purpose.

(b) CRIMINAL PENALTIES FOR THE MISUSE OF A SOCIAL SECURITY NUMBER.—Any individual who—

(1) knowingly uses a social security account number for purposes of locating or identifying the individual with the intent to harm that individual, or to use the identity of that individual for an illegal purpose; or

(2) knowingly interacts with a public entity to an affiliate or competitor in violation of this section of this title or of any amendments made by this title shall be subject, in addition to any other penalties that may be prescribed by law—

(A) to a civil penalty of not more than $5,000 for each such violation; and

(B) to a civil penalty of not more than $50,000, if the violations have occurred with such frequency as to constitute a general business practice.

(2) DETERMINATION OF VIOLATIONS.—Any willful violation committed contemporaneously with respect to any individual's social security numbers of 2 or more individuals by means of mail, telecommunication, or otherwise, shall be treated as a separate violation with respect to each such individual.

SEC. 209. CRIMINAL ACTIONS AND CIVIL PENALTIES.

(a) APPLICABILITY.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a-8) and the provisions prescribed under section 205(c) of such Act (42 U.S.C. 408(a)) shall apply to a civil penalty action under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act (42 U.S.C. 1320a-7a)(a), except that, for purposes of this paragraph, any reference in section 1128A of such Act (42 U.S.C. 1320a-7a) to the Secretary shall be deemed to be a reference to the Attorney General.

SEC. 210. FEDERAL INJUNCTIVE AUTHORITY.

In addition to any other enforcement authority conferred under this title or the amendments made by this title, the Federal Government shall have injunctive authority with respect to any violation by a public entity of any provision of this title or of any amendments made by this title.

TITLE III—LIMITATIONS ON SALE AND SHARING OF NONPUBLIC PERSONAL FINANCIAL INFORMATION

SEC. 301. DEFINITION OF SALE.

(a) IN GENERAL.—Section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809) is amended by adding at the end the following:

"(12) SALE.—The terms 'sale', 'sell', and 'sold', with respect to nonpublic personal information, mean the exchange of such information for any thing of value, directly or indirectly, including the licensing, bartering, or renting of such information.''

(b) RULES APPLICABLE TO SALE OF NONPUBLIC PERSONAL INFORMATION.

Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended—

(1) in the section heading, by inserting "SALES, AND OTHER SHARING" after "DISCLOSURES";

(2) in subsection (a), by striking "disclose to" and inserting "sell or otherwise disclose to an affiliate or";

(3) in subsection (b)—

(A) in the subsection heading, by inserting "SALES, AND OTHER SHARING TO AFFILIATES" before the period;

(B) by striking "a nonaffiliated third party" each place that term appears and inserting "an affiliate";

(C) by striking ‘‘such third party’’ each place that term appears and inserting ‘‘such affiliate’’;

(D) by striking ‘‘may not disclose’’ and inserting ‘‘may not sell or otherwise disclose’’; and

(E) by striking ‘‘may disclose’’ and inserting ‘‘may sell or otherwise disclose’’; and
(E) by striking paragraph (2) and inserting the following:

“(2) EXCEPTION.—This subsection shall not prevent a financial institution from providing personal information to an affiliated third party to perform services for or functions on behalf of the financial institution, including marketing of the financial institution’s own products or services. If the financial institution fully discloses the provision of such information and the consumer consents in writing or orally, the financial institution fully discloses the provision of such information and requires the consumer to maintain the confidentiality of such information.”

(4) in subsection (d), by striking “disclose” and inserting “sell or otherwise disclose”;

(5) by striking subsection (e); (6) in subsections (c) and (d) as subsections (e) and (f), respectively; and

(7) by inserting after subsection (b) the following:

“(c) OPT IN FOR DISCLOSURES TO NON-AFFILIATED THIRD PARTIES.—

“(1) AFFIRMATIVE CONSENT REQUIRED.—A financial institution may not sell or otherwise disclose nonpublic personal information to any nonaffiliated third party, unless the consumer to whom the information pertains—

“(A) has affirmatively consented to the sale or otherwise disclosure of nonpublic personal information to an affiliate or nonaffiliated third party; and

“(B) has not withdrawn the consent.

“(2) EXCEPTION.—This subsection shall not prevent a financial institution from providing personal information to a nonaffiliated third party to perform services for or functions on behalf of the financial institution, including marketing of the financial institution’s own products or services (subject to subsection (d) with respect to joint agreements between 2 or more financial institutions), if the financial institution fully discloses the provision of such information and enters into a contractual agreement with the nonaffiliated third party that requires that third party to maintain the confidentiality of such information.

“(d) OPT OUT FOR JOINT AGREEMENTS.—A financial institution may not sell or otherwise disclose nonpublic personal information to a nonaffiliated third party for the purpose of offering financial products or services pursuant to a joint agreement between 2 or more financial institutions, unless—

“(1) the financial institution clearly and conspicuously discloses to the consumer to whom the information pertains, in writing or in electronic form or other form permitted by the financial institution, that such information is to be provided under this subpart, that such information may be disclosed to such nonaffiliated third party; and

“(2) the consumer is given the opportunity, before the such information is initially disclosed, to direct that such information not be disclosed to such nonaffiliated third party.

“(3) the consumer is given an explanation of how the consumer can exercise that non-disclosure option; and

“(4) a financial institution receiving the nonpublic personal information signs a written agreement obliging it—

“(A) to maintain the confidentiality of the information; and

“(B) to refrain from using, selling, or otherwise disclosing the information other than to carry out the joint offering or servicing of the financial product or financial service that is the subject of the written agreement.”.

SEC. 303. EXCEPTIONS TO DISCLOSURE PROHIBITION.

(a) IN GENERAL.—Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802), as amended by this title, is amended by adding at the end the following:

“(e) EXCEPTIONS.—Notwithstanding any other provision of this section, this section does not prohibit—

“(1) the sale or other disclosure of nonpublic personal information to an affiliate or a nonaffiliated third party—

“(A) as necessary to effect, administer, or enforce a financial product or service authorized by the consumer to whom the information pertains, or in connection with—

“(i) servicing or processing a financial product or service requested or authorized by the consumer;

“(ii) maintaining or servicing the account with the financial institution or the exercise by the consumer of a nondisclosure option under this section, except that nothing in this subsection may be construed to prohibit a financial institution from offering incentives to elicit consumer consent to the use of his or her nonpublic personal information.”;

“(b) REPEAL OF REGULATORY EXEMPTION AUTHORITY.—Section 504 of the Gramm-Leach-Bliley Act (15 U.S.C. 6804(a)(1)) is amended by—

“(1) by striking subsection (b);

“(2) by striking “(a) REGULATORY AUTHORITY.—

“(A) by inserting “affiliates” and before “nonaffiliated”;

“(B) in subparagraph (A), by striking “502(e)” and inserting “502(g)”;


“(D) in subsection (a) of section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802(a)(1)) shall promulgate final regulations in accordance with that section to carry out the amendments made by this Act.

(b) SEC. 306. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 6 months after the date of enactment of this Act.

(b) TITLE IV—LIMITATIONS ON THE PROVISION OF PROTECTED HEALTH INFORMATION.

SEC. 401. DEFINITIONS.

In this title:

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘business associate’ means, with respect to a covered entity or person who—

“(i) on behalf of such covered entity or of an organized health care arrangement in which the covered entity participates, but other than in the capacity of a member of the workforce of such covered entity or arrangement, performs, or assists in the performance of—

“(1) function or activity involving the use or disclosure of individually identifiable health information, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing;

“(2) any other function or activity regulated under subchapter C of title 45, Code of Federal Regulations; or

“(ii) provides, other than in the capacity of a member of the workforce of such covered entity, legal, actuarial, accounting, consulting, data aggregation (as defined in section 164.501 of title 45, Code of Federal Regulations), practice management services, accreditation, or financial services to or for such covered entity, or to or for an organized

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amendment, compliance, or other purposes, as authorized by law.

“(b) DENIAL OF SERVICE PROHIBITED.—A financial institution may not deny any consumer the right to exercise a service as a result of the refusal by the consumer to grant consent to disclosure under this section or the exercise by the consumer of a nondisclosure option under this section, except that nothing in this subsection may be construed to prohibit a financial institution from offering incentives to elicit consumer consent to the use of his or her nonpublic personal information.”
health care arrangement in which the covered entity participates, where the provision of the service involves the disclosure of individually identifiable health information from one covered entity or arrangement to another covered entity or arrangement, or from another business associate of such covered entity or arrangement, to the person.

(B) LIMITATIONS.—
(i) A covered entity participating in an organized health care arrangement that performs a function or activity as described by subparagraph (A)(i) for or on behalf of one or more covered entities or arrangements, or that provides a service as described in subparagraph (A)(ii) to or for such organized health care arrangement, does not, simply through such performance of such function or activity the provision of such service, become a business associate of other covered entities participating in such organized health care arrangement.

(2) Covered entity.—The term ‘covered entity’ means—
(A) a health plan;
(B) a health care clearinghouse; and
(C) a health care provider who transmits any health information in electronic form in connection with a transaction covered by parts 160 through 164 of title 15, Code of Federal Regulations.

(3) DISCLOSE.—The term ‘disclose’ means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

4. EMPLOYER.—The term ‘employer’ has the meaning given that term in section 3(5) of the Internal Revenue Code of 1986.

5. GROUP HEALTH PLAN.—The term ‘group health plan’ means any health plan which—
(A) is created or received by a covered entity;
(B) The sale or dispensing of a drug, device, service, assessment, or procedure for or on behalf of an individual; or
(C) a health care provider who transmits any health information in electronic form in connection with a transaction covered by part 160 of title 15, Code of Federal Regulations.

6. HEALTH CARE.—The term ‘health care’ includes, but is not limited to, the following:
(A) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition, functional status, of an individual or that affects the structure or function of an individual;
(B) The sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

7. HEALTH CARE CLEARINGHOUSE.—The term ‘health care clearinghouse’ means a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and value-added networks and switches that—
(A) processes or facilitates the processing of health care transactions originated from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction;
(B) receives a standard transaction from another entity and processes or facilitates the processing of health care information into nonstandard format or nonstandard data content for the receiving entity.

8. HEALTH CARE PROVIDER.—The term ‘health care provider’ has the meaning given that term in section 2791(a)(3) of the Public Health Service Act (42 U.S.C. 2791(a)(3)) with respect to—
(A) a provider of medical or health services in subsections (u) and (s) of section 1861 of the Social Security Act (42 U.S.C. 1395x(a)), respectively, and includes any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.

9. HEALTH INFORMATION.—The term ‘health information’ means any information, whether oral or recorded in any form or medium, that—
(A) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
(B) relates to the past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual.

10. HEALTH INSURANCE ISSUER.—The term ‘health insurance issuer’ means—
(A) a health plan;
(B) The sale or dispensing of a drug, device, service, assessment, or procedure for or on behalf of an individual; or
(C) a health care provider who transmits any health information in electronic form in connection with a transaction covered by part 160 of title 15, Code of Federal Regulations.

11. HEALTH MAINTENANCE ORGANIZATION.—The term ‘health maintenance organization’ (‘HMO’) (as defined in section 2791(b)(3) of the Public Health Service Act, 42 U.S.C. 200gg-91(b)(3)) and used in the definition of health plan in this section and includes an HMO that is licensed to engage in the business of insurance in a State and is subject to State law that regulates insurance.

12. HEALTH OVERSIGHT AGENCY.—The term ‘health oversight agency’ means an agency or organization, or whose principal purpose is providing health oversight functions, or whose principal activity is to monitor or review the performance of health care providers, that is a subset of health information, in whole or in part, to the extent that the information is individually identifiable.

13. HEALTH PLAN.—The term ‘health plan’ means any entity, or organization, or combination of individual or group plans, that is a subset of health information, in whole or in part, to the extent that the information is individually identifiable.

14. INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term ‘individually identifiable health information’ means information that is a subset of health information, inclusive of the health information collected from an individual, that—
(A) is created or received by a covered entity or employer; and
(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and
(C) identifies an individual; or
(D) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.

15. LAW ENFORCEMENT OFFICIAL.—The term ‘law enforcement official’ means an officer or employee of any agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, who is empowered by law to—
(A) investigate or conduct an official inquiry into a potential violation of law; or
(B) prosecute or otherwise conduct a criminal investigation or administrative proceeding arising from an alleged violation of law.

16. LIFE INSURER.—The term ‘life insurer’ means a life insurance company (as defined in section 636 of the Internal Revenue Code of 1986), including the employees and agents of such company.
(17) MARKETING.—The term ‘‘marketing’’ means to make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service.

(18) NONCOVERED ENTITY.—The term ‘‘noncovered entity’’ means any person or public or private entity that is not a covered entity, including the employer, public health authority, health oversight agency, or law enforcement official, or any person acting as an agent of such entities or persons.

(19) ORGANIZED HEALTH CARE ARRANGEMENT.—The term ‘‘organized health care arrangement’’ means—

(A) a clinically integrated care setting in which individuals typically receive health care from more than 1 health care provider;

(B) an organized system of health care in which more than 1 covered entity participates, and in which the participating covered entities—

(i) hold themselves out to the public as participating in a joint arrangement; and

(ii) participate in joint activities including at least—

(I) utilization review, in which health care decisions by participating covered entities are reviewed by other participating covered entities or a third party on their behalf;

(II) quality improvement activities, in which treatment provided by participating covered entities is assessed by other participating covered entities or by a third party on their behalf; or

(III) payment activities, if the financial risk for delivering health care is shared, in part or in whole, by participating covered entities through the joint arrangement and if protected health information created or received by a covered entity is reviewed by other participating covered entities or by a third party on their behalf for the purpose of administering the sharing of financial risk;

(C) a group health plan and a health insurance issuer or HMO with respect to such group health plan, but only with respect to protected health information created or received by such health insurance issuer or HMO that relates to individuals who are or have been participants or beneficiaries in such group health plan;

(D) the health plan of 1 or more other group health plans each of which are maintained by the same plan sponsor; or

(E) the group health plans described in subparagraph (D) that are subject to the same source of funding or HMOs with respect to such group health plans, but only with respect to protected health information created or received by such health insurance issuer or HMO that relates to individuals who are or have been participants or beneficiaries in any of such group health plans.

(20) PROTECTED HEALTH INFORMATION.—The term ‘‘protected health information’’ means individually identifiable health information that, except as provided in subparagraph (B), is—

(I) transmitted by electronic media;

(ii) maintained in any medium described in the definition of electronic media in section 162.100 of title 45, Code of Federal Regulations; or

(iii) transmitted or maintained in any other form or medium.

(B) An organization which does not include individually identifiable health information in—


(ii) records described in subsection (a)(4)(B)(iv) of that Act; or

(iii) employment records held by a covered entity in its role as an employer.

(21) PUBLIC AUTHORITY.—The term ‘‘public authority’’ means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including employees or agents of such public agency, or entity to whom it has granted authority, that is responsible for public health matters as part of its official mandate.

(22) SECURITY.—The term ‘‘security’’ means the Secretary, the Secretary’s designee, or any person or entity acting as an agent of such entities or persons.

(23) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of Health and Human Services.

(24) SALE; SELL; SOLD.—The terms ‘‘sale’’, ‘‘sell’’, and ‘‘sold’’, with respect to protected health information exchanged of such information for anything of value, directly or indirectly, including the licensing, bartering, or renting of such information.

(25) USE.—The term ‘‘use’’, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

(26) WRITING.—The term ‘‘writing’’ means writing in either a paper-based or computer-based form, including electronic and digital signatures.

SEC. 402. PROHIBITION AGAINST SELLING PROTECTED HEALTH INFORMATION.

(a) VALID AUTHORIZATION REQUIRED.—

(1) IN GENERAL.—A noncovered entity shall not sell the protected health information of an individual or use such information for marketing purposes without an authorization that is valid under section 403. When a noncovered entity obtains or receives authorization to sell such information, such sale must be consistent with such authorization.

(2) NO DUPLICATE AUTHORIZATION REQUIRED.—Nothing in paragraph (1) shall be construed as requiring a noncovered entity that receives from a covered entity an authorization that is valid under section 403 to obtain an additional authorization from an individual before the sale or use of the individual’s protected health information so long as the sale or use of the information is consistent with the terms of the authorization.

(b) SCOPE.—A sale of protected health information as described under subsection (a) shall be limited to the minimum amount of information necessary to accomplish the purpose for which the sale is made.

(c) PURPOSE.—A recipient of information sold pursuant to this section may use or disclose such information solely to carry out the purpose for which the information was sold.

(d) NOT REQUIRED.—Nothing in this title permitting the sale of protected health information shall be construed to require such sale.

(e) IDENTIFICATION OF INFORMATION AS PROTECTED HEALTH INFORMATION.—Information sold pursuant to this title shall be clearly identified as protected health information.

(f) NO WAIVER.—Except as provided in this title, an individual’s authorization to sell protected health information shall not be considered to constitute authorization to sell the individual’s health information to any person or entity if the individual has under other Federal or State laws, the rules of evidence, or common law, the right to sue or otherwise protect the individual’s health information from improper disclosure.

SEC. 403. AUTHORIZATION FOR SALE OR MARKETING OF PROTECTED HEALTH INFORMATION BY NONCOVERED ENTITIES.

(a) VALID AUTHORIZATION.—A valid authorization is a document that complies with all requirements of this section. Such authorization may include additional information not required under this section, provided that such information is not inconsistent with the requirements of this section.

(b) DEFECTIVE AUTHORIZATION.—An authorization is not valid, if the document submitted has any of the following defects:

(1) The expiration date has passed or the expiration event is known by the noncovered entity to have occurred.

(2) The authorization has not been filled out completely, with respect to an element described in subsections (e) and (f).

(3) The authorization is known by the noncovered entity to have been revoked.

(4) The authorization lacks an element required by subsections (e) and (f).

(5) Any material information in the authorization is known by the noncovered entity to be false.

(c) REVOCATION OF AUTHORIZATION.—An individual may revoke an authorization provided under this section at any time prior to the expiration date, except to the extent that the noncovered entity has taken action in reliance thereon.

(d) DOCUMENTATION.—

(1) IN GENERAL.—A noncovered entity must document and retain any signed authorization under this section as required under paragraph (2).

(2) STANDARDS.—A noncovered entity shall, if a communication is required by this title to be in writing, maintain such writing, or an electronic copy, as documentation.

(3) RETENTION PERIOD.—A noncovered entity shall retain the documentation required by this section for 6 years from the date of its creation or the date when it last was in effect, whichever is later.

(e) CONTENT OF AUTHORIZATION.—

(1) CONTENT.—An authorization described in subsection (a) shall—

(A) contain a description of the information to be sold that identifies such information in a specific and meaningful manner;

(B) contain the name or other specific identifying information of the person, or class of persons, authorized to sell the information;

(C) contain the name or other specific identifying information of the person, or class of persons, to whom the information is to be sold;

(D) include an expiration date or an expiration event relating to the selling of such information; and

(E) state that the authorization is valid until such date or event.

(2) PLAIN LANGUAGE.—The authorization shall be written in plain language.

(f) NOTICE.—

(1) IN GENERAL.—The authorization shall include a statement that the individual may—

(A) inspect or copy the protected health information to be sold; and

(B) refuse to sign the authorization.

(2) NONCOVERED ENTITY.—A noncovered entity shall provide the individual with a copy of the signed authorization.
(g) MODEL AUTHORIZATIONS.—The Secretary, after notice and opportunity for public comment, shall develop and disseminate model written authorizations of the type described in paragraph (f) and model statements of the limitations on such authorizations. Any authorization obtained on a model authorization form developed by the Secretary pursuant to this paragraph shall not be deemed to satisfy the requirements of this section.

(h) NONCOVERED.—A covered entity or noncovered entity shall not condition the purchase of a product or the provision of a service to an individual based on whether such individual provides an authorization to such entity under this section.

SEC. 404. PROHIBITION AGAINST RETALIATION.

A noncovered entity that collects protected health information, may not adversely affect another person, directly or indirectly, because such person has exercised a right under this title, disclosed information relating to a possible violation of this title, or associated with, or assisted, a person in the exercise of a right under this title.

SEC. 405. RULE OF CONSTRUCTION.

The requirements of this title shall not be construed to apply to any additional items or documents or in any way alter the requirements imposed upon covered entities under parts 160 through 164 of title 45, Code of Federal Regulations.

SEC. 406. REGULATIONS.

(a) In General.—The Secretary shall promulgate regulations implementing the provisions of this title.

(b) Timeframe.—Not later than 3 years after the date of enactment of this Act, the Secretary shall publish proposed regulations in the Federal Register. With regard to such proposed regulations, the Secretary shall provide an opportunity for submission of comments by interested persons during a period of not less than 90 days. Not later than 2 years after the date of enactment of this Act, the Secretary shall publish final regulations in the Federal Register.

SEC. 407. ENFORCEMENT.

(a) In General.—A covered entity or noncovered entity that knowingly violates section 162 shall be subject to a civil money penalty under this section.

(b) Opportunity for Hearing.—The civil money penalty described in subsection (a) shall not exceed $100,000. In determining the amount of any civil money penalty under this section, the Secretary shall take into account the previous record of compliance of the entity being assessed with the applicable provisions of this title and the gravity of the violation.

(c) Administrative Review.—(1) OPPORTUNITY FOR HEARING.—The entity assessed shall be afforded an opportunity for a hearing by the Secretary upon request made within 30 days after the date of the issuance of a notice of assessment. In such hearing the decision shall be made on the record. See section 554 of title 5, United States Code. If no hearing is requested, the assessment shall constitute a final and unappealable order.

(2) HARING PROCEDURE.—If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 30 days of the decision of the judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (d).

(d) Procedures.—(1) FILING OF ACTION FOR REVIEW.—Any entity against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which such entity is located or in which a substantial part of such proceeding was held. The Secretary shall provide notice by registered mail to the Secretary.

(2) CERTIFICATION OF ADMINISTRATIVE RECORD.—The Secretary shall promptly certify and forward to the court the record upon which the penalty was imposed.

(3) STANDARD FOR REVIEW.—The findings of the Secretary shall be set aside only if found to be clearly erroneous. A decision made by a hearing officer shall be set aside only if found to be clearly erroneous.

(e) Failure to Pay Assessment; Maintenance of Action.—(1) FAILURE TO PAY ASSESSMENT.—If any entity fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed in such action in the appropriate United States district court.

(2) NONREVIEWABILITY.—In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(f) Payment of Penalties.—Except as otherwise provided in this section, any civil money penalty paid under this section shall be paid to the Secretary and may be treated as a civil recovery by the Secretary in any civil action or proceeding in any court or before any administrative body to which such civil money penalty has been paid.

(g) Enforcement Procedure.—Any final decision, order, or judgment of the district court concerning such review shall be subject to appeal as provided in chapter 15 of title 28, United States Code.

(h) Filing of Complaint.—In such action the Secretary may intervene in the place of and on behalf of any person who has been or may be adversely affected by any action of the Secretary under this title.

(i) Effect of Intervention.—If the Attorney General intervenes in an action under subsection (a), the Attorney General shall have the right to be heard with respect to any issue related to the provisions with respect to which the penalty was imposed.

TITLE V—DRIVER’S LICENSE PRIVACY

SEC. 501. DRIVER’S LICENSE PRIVACY.

Section 552 of title 18, United States Code, is amended by striking paragraphs (2) through (4) and adding the following:

‘‘(2) ‘person’ means an individual, organization, or entity that does not include a State or agency thereof;

‘‘(3) ‘personal information’ means information that identifies an individual, including an individual’s social security number, driver identification number, name, address, (but not the 5-digit zip code), telephone number, medical or disability information, any physical copy of a driver’s license, birth date, information on physical characteristics, including height, weight, sex, or eye color, or any biometric identifiers on a license, including a fingerprint, but not information on vehicular accidents, driving violations, and driver’s status;”

‘‘(4) ‘highly restrictive personal information’ means information used in an individual’s photograph or image, social security number, medical or disability information, any physical copy of a driver’s license, driver’s name, driver’s number, birth, date, information on physical characteristics, including height, weight, sex, or eye color, or any biometric identifiers on a license, including a fingerprint;’’.

SEC. 502. PRIVACY, SECURITY, AND USE OF A DRIVING LICENSE.

(a) In General.—Nothing in this Act shall be construed to preclude an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(i) exercise the powers conferred on such attorney general by the laws of that State to—

(ii) conduct investigations;

(iii) administer oaths or affirmations; or

(iv) compel the attendance of witnesses or the production of documentary and other evidence.

(b) Actions by the Attorney General of the United States.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that practice.

(2) EFFECT OF INTERVENTION.—If the Attorney General intervenes in an action under subsection (a), the Attorney General shall have the right to be heard with respect to any issue related to the provisions with respect to which the penalty was imposed.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(d) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that practice.

(2) SERVICE OF PROCESS.—In any action brought under subsection (a), process may be served in any district in which the defendant may be found.

(e) Venue; Service of Process.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 503. MISCELLANEOUS.

SEC. 601. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) In General.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by a statute, regulation, or action made by a public or private entity in a practice that is prohibited under title I, II, or IV of this Act or under any amendment made by such a title, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with such titles or such amendments;

(C) obtain a restraint, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may deem to be appropriate.

(b) Notice.—(A) In General.—Before filing an action under paragraph (1), the attorney general of the State shall provide notice to the Attorney General—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) Exception.—(1) In General.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the State attorney general determines that it is not feasible to provide the notice described in subparagraph (A) before the filing of the action.

(c) Certification of Action.—If the Attorney General certifies an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the same time as the State attorney general files the action.

(d) Intervention.—(1) In General.—On receiving notice under subsection (a), the Attorney General shall have the right to intervene in the action that is the subject of the notice.

(2) Effect of Intervention.—If the Attorney General intervenes in an action under subsection (a), the Attorney General shall have the right to be heard with respect to any issue related to the provisions with respect to which the penalty was imposed.

TITLE VI—MISCELLANEOUS

SEC. 602. FEDERAL INJUNCTIVE AUTHORITY.

In addition to any other enforcement authority conferred under this Act or under any amendment made by a public or private entity violates such provision.
By Mrs. FEINSTEIN (for herself and Mr. VON OHNH):

S. 117. A bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers; to the Committee on Health, Education, Labor, and Pensions.

Mrs. FEINSTEIN. Mr. President. I rise today with Senator VON OHNH to introduce legislation to expand the federal loan forgiveness program to include Head Start teachers.

Nationwide, only 30 percent of Head Start teachers have completed a baccalaureate or advanced degree program. In California, that number is even smaller: about eighteen percent of Head Start teachers have completed a bachelor’s degree.

To prepare Head Start children for elementary school, we must recruit highly qualified teachers who have demonstrated knowledge and teaching skills in reading, writing, and other areas of the preschool curriculum, and teachers with such qualifications are the only way to ensure that the children start school ready to learn.

A survey conducted by the U.S. Department of Health and Human Services found a strong relationship between the education of Head Start teachers and classroom quality. Teachers with higher education levels were found to be more sensitive and responsive to their children, to have more high quality language activities, and more creative activities in their classrooms.

Teachers with higher levels of education also had classes with higher quality language activities such as reading books for the children and providing more opportunities for children to develop skills in expressing thoughts.

Head Start is the primary federal program that has the potential to reach out to low-income children early in their formative years when their cognitive skills are just developing.

We know that poor children disproportionately start school behind their peers—they are less likely to count to 10 or to recite the alphabet. Nation’s youngest enter elementary school without the basic skills necessary to succeed. Often these children lag behind their peers throughout their academic career.

As taxpayers, we will spend millions on efforts to help these children catch up. Many of these children will never catch up. A recent national study by The High/Scope Perry Preschool confirms the importance of providing preschool children with the opportunity to gain the needed skills to succeed in school and life.

In order to give every child a head start in life, we must continue to recruit highly qualified teachers to the Head Start field and prevent the best teachers from leaving.

Many Head Start programs across the country, including in California, are losing qualified teachers to local school districts in part because the pay is lower.

Nationally, the average Head Start teacher earns a salary of $21,287 compared to $43,152 for an elementary school teacher.

Head Start teachers are making half of what elementary school teachers are paid on average.

Low pay, combined with increasing student debt, is a real deterrent to getting college graduates to become Head Start teachers.

And every teacher that Head Start loses impacts the quality and access to services for our nation’s low-income children.

One way to recruit and retain highly qualified Head Start teachers is to offer incentives to pursue a career in this field.

Current law allows elementary and secondary school teachers to receive up to $5,000 in loan forgiveness in exchange for five years of service.

We believe Head Start teachers should be given this same opportunity.

The legislation we are introducing today is meant to encourage recent graduates, current Head Start teachers without a degree, and college students to enter and remain in the Head Start field.

In exchange for 5 years of service, a Head Start teacher could receive up to $5,000 of their federal loans forgiven.

We must continue to improve the Head Start program so that children will have the necessary cognitive skills when they leave the program, such as being able to count to ten, begin to recite the alphabet, and recognize sizes and colors.

We cannot do the first step. To further ensure cognitive learning, we must also continue to raise the standards and pay for Head Start teachers.

Providing our nation’s low-income children with access to highly educated and qualified teachers so that they enter school ready to learn is critical to their future success and should be a priority of this Congress.

I urge my colleagues to support this legislation. 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. 117

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

SECTION 1. LOAN FORGIVENESS FOR HEAD START TEACHERS.

(a) SHORT TITLE.—This section may be cited as the “Loan Forgiveness for Head Start Teachers Act of 2005”.

(b) HEAD START TEACHERS.—Section 428J of the Higher Education Act of 1965 (20 U.S.C. 1078) is amended—

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

“(1)(A) has been employed as a full-time teacher for 5 consecutive complete school years in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; or

“(ii) as a Head start teacher for 5 consecutive complete program years under the Head Start Act; and

“(III) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 9101 of the Elementary and Secondary Education Act of 1965; and

“(ii) if employed as a Head Start teacher, has demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of a preschool curriculum, with a focus on cognitive learning; and

(2) in subsection (g), by adding at the end the following:

“(2) HEAD START.—An individual shall be eligible for loan forgiveness under this section for service described in clause (i) or clause (ii) of section (b)(1)(A) if the individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2005; and

(3) by adding at the end the following:

“(1) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and succeeding fiscal years to carry out loan repayment under this section for service described in clause (i) of subsection (b)(1)(A).

(c) DIRECT STUDENT LOAN FORGIVENESS.—

(1) IN GENERAL.—Section 466 of the Higher Education Act of 1965 (20 U.S.C. 1087f) is amended—

(A) in subsection (b)(1), by striking sub

paragraph (A) and inserting the following:

“(A) has been employed as a full-time teacher for 5 consecutive complete school years in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such a school; or

“(II) as a Head Start teacher for 5 consecutive complete program years under the Head Start Act; and

“(II) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 9101 of the Elementary and Secondary Education Act of 1965; and

“(II) if employed as a Head Start teacher, has demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of a preschool curriculum, with a focus on cognitive learning; and

(B) in subsection (g), by adding at the end the following:

“(3) HEAD START.—An individual shall be eligible for loan forgiveness under this section for service described in subsection (b)(1)(A)(i) only if such individual received a baccalaureate or graduate degree on or after the date of enactment of the Loan Forgiveness for Head Start Teachers Act of 2005; and

(2) by adding at the end the following:

“(1) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated such sums as may be necessary for fiscal year 2009 and succeeding fiscal years to carry out loan repayment under this section for service described in subsection (b)(1)(A).
repayment under this section for service described in subclause (II) of subsection (b)(1)(A)(ii)."

(b) CONFORMING AMENDMENTS.—

(1) FFEL PROGRAM.—Section 423J of the Higher Education Act of 1965 (20 U.S.C. 1087f) is amended—

(A) in subsection (c)(1), by inserting "or fifth complete school year" after "fifth complete school year of teaching'';

(B) in subsection (f), by striking "subsection (b)(1)(A)(i)" and inserting "subsection (b)(1)(A)(i)(I)";

(C) in subsection (g)(1)(A), by striking "subsection (b)(1)(A)(i)" and inserting "subsection (b)(1)(A)(i)(I)"; and

(D) in subsection (h), by inserting "except as part of the term 'program year'" before "where''.

(2) DIRECT LOAN PROGRAM.—Section 460 of the Higher Education Act of 1965 (20 U.S.C. 1087l) is amended—

(A) in subsection (c)(1), by inserting "or fifth complete program year" after "fifth complete school year of teaching'';

(B) in subsection (f), by striking "subsection (b)(1)(A)(i)" and inserting "subsection (b)(1)(A)(i)(I)";

(C) in subsection (g)(1)(A), by striking "subsection (b)(1)(A)(i)" and inserting "subsection (b)(1)(A)(i)(I)"; and

(D) in subsection (h), by inserting "except as part of the term 'program year'" before "where''.

(c) CONGRESSIONAL RECORD

LOAN FORGIVENESS FOR HEAD START TEACHERS

ACT OF 2005

Mr. VOINOVICH. Mr. President, I am pleased to join my friend and colleague from California, Senator DIANNE FEINSTEIN, in introducing very important legislation that I believe will encourage young teachers to go into early childhood education, improve the qualifications of current early educators, and lead to a better education for our Nation’s youngest children.

Study after study on human development has found that there is no more important time in a child’s life than their earliest years. In fact, the learning opportunities in these years have a critical and decisive impact on the development of the brain and on the nature and extent of their adult capacities.

To maximize their potential, we must begin to teach our children the necessary learning skills they will utilize throughout their lives as early as possible; well before they reach kindergarten.

I know of few other programs that have the same potential to meet this goal as Head Start.

When I was Governor of Ohio, we invested heavily in Head Start, increasing funding from $18 million in 1990, to $180 million in 1998.

By the time I left office, there was a space available for every eligible child in Ohio whose parents wanted them in a Head Start or pre-school program, and because of our efforts, Ohio led the Nation in terms of children served by Head Start.

Now that I am in the Senate, I continue to believe that it is absolutely critical that we do more to help our young people prepare to begin school "ready to learn."

The results of a survey undertaken by the U.S. Department of Health and Human Services in 1999 and 2000 has shown a significant correlation between the quality of education a child receives and the amount of education that child’s teacher possesses.

Unfortunately, nationwide, just 30 percent of Head Start teachers have earned a baccalaureate or advanced degree.

Under Ohio law, by 2007, all Head Start teachers must have at least an associate’s degree. It is hoped that this requirement will encourage Head Start educators to pursue a bachelor’s or even an advanced degree. After all, the more education our teachers have, the better off our children will be.

Ultimately, we all know, education can be expensive.

The bill we are introducing is designed to encourage currently enrolled and incoming college students working on a bachelor’s or a master’s degree to pursue a career as a Head Start teacher. It is also intended to assist current Head Start teachers, who wish to pursue a degree, to remain in the field.

In exchange for a 5-year teaching commitment in a qualified Head Start program, a college graduate with a minimum of a bachelor’s degree could receive up to $5,000 in forgiveness for their Federal student loan. Current law already permits elementary and secondary educators to receive this type of loan forgiveness. It is time to give Head Start teachers this same opportunity.

Recruiting and retaining Head Start and early childhood educators continues to be a challenge for Ohio and other States. This is not surprising. On average, Head Start teachers earn about half of the average salary of kindergarten teachers. For Head Start providers, this financial difference combined with the growing cost of a college education makes it difficult to recruit quality teachers.

This bill will help communities, schools and other funded Head Start providers to meet the challenge of recruiting and retaining high quality teachers. It is one of the best ways that I know of where we can make a real difference in the lives of our most precious resource, our children.

One of the best uses of our Federal education resources is to target them toward our youngest citizens where they can have the most impact.

I am pleased to have been able to work with my colleague Senator FEINSTEIN on this legislation, and I ask for my colleagues' support.

By Mrs. FEINSTEIN: S. 118. A bill for the relief of Maria Cristina DeGrassi; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I offer today private relief legislation to provide lawful permanent residence status to Maria Cristina DeGrassi, a 37-year-old severely disabled Italian national who lives with her family in San Mateo, California.

I have decided to offer private relief legislation on Ms. DeGrassi’s behalf because I believe that her removal from the United States would be tragically unfair not only to her, but to her sister and brother-in-law, Daniela Degri and Luca Prasso, who reside legally in the United States and who are Ms. DeGrassi’s closest family and only willing caregivers.

Ms. DeGrassi has legally resided in the United States since 1997 on a non-immigrant tourist visa. However, she is not like an ordinary tourist. She cannot enjoy California’s beautiful coastlines or scenic mountain parks. She cannot tour Hollywood movie studios or Napa Valley wineries. Ms. DeGrassi was born premature in 1965 and, consequently, is severely mentally handicapped and autistic. Because of these disabilities, Ms. DeGrassi has the mental capacity of a two-year-old, cannot speak and understands only a few sentences in Italian.

In addition to these challenges, Ms. DeGrassi was diagnosed with diabetes in 2001 and now requires daily insulin shots and a carefully monitored diet.

For Ms. DeGrassi, the sum of these health problems means that she must have 24-hour-a-day, 7-day-a-week personal care and attention. Luckily, however, there are two people in Ms. DeGrassi’s life who are more than happy not only to care for her daily needs, but to love and nurture her.

Ms. DeGrassi’s sister, Daniela, and her brother-in-law, Luca, are legal permanent residents of the United States. Mr. Prasso is a highly skilled and valued employee of PDI-DreamWorks, the world renowned movie production company. Serving as a Character Technical Supervisor and earning nearly $200,000 per year, Mr. Prasso has worked on such critically acclaimed films as “Shrek” and “ANTZ.” In the course of that work, Mr. Prasso has developed and patented new technologies and become a leader in his field. In a letter in support of this legislation, Mr. Prasso referred to Mr. Prasso’s skills as “irreplaceable.”

Daniela DeGrassi has also excelled in the United States, starting a successful freelance photography career and business.

Together, Mr. Prasso and Daniela DeGrassi have provided Ms. DeGrassi with the love, care and attention that she so desperately needs. When Ms. DeGrassi’s father and aunt died in 1997, the couple knew that they were the only family left who was willing to care for her. The choice for them was clear. Mr. Prasso wrote in a letter he sent me, “My wife and I then faced a big decision. We refuse[d] completely to accept the idea of not being able to properly care of her. No other relative was alive or came forward to offer help. We were the only and closest persons to Cristina. We decided to take care of her like a daughter.”

For the past seven years, Mr. Prasso and Daniela DeGrassi have done just that, organizing their lives around caring for and attending to Ms. DeGrassi.
They cook for her and clothe and bathe her on a daily basis. Because of the close monitoring Ms. Degrassi’s diabetic condition requires, when the couple wants to go out to dinner or see a movie, they must do so separately so that they always have someone with Ms. Degrassi in case of an emergency.

Despite the hardships that caring for Ms. Degrassi have imposed upon Mr. Prasso and Daniela Degrassi, the experience has deeply enriched their lives. In Mr. Prasso’s letter, he wrote, “despite my long work hours and my wife[s]’ new successful business as a photographer, we are able and fully committed to continue to take care [of Cristina] 24 hours a day. . . . The reward of faced with Cristina’s condition is that Cristina is an amazing thing and makes all the pain disappear.”

Unfortunately, if this private relief bill is not approved, this wonderful family will face a tragic set of choices. Since 1997, Ms. Degrassi has applied for and always received six-month extensions of her non-immigrant tourist visa. The Degrassi’s lawyer has informed the couple that approval of the current extension is unlikely and has recommended they withdraw their petition. This would leave Ms. Degrassi with nothing. There are no other avenues available for her to remain in the United States lawfully. In short, if this private relief legislation is not approved, Ms. Degrassi will be forced to return to Italy.

However, Mr. Prasso and Daniela Degrassi’s love for their sister will never allow her to return to Italy alone. In the event of Ms. Degrassi’s removal, the couple will leave their lives in California and move back with her in order to continue to provide the care and attention on which Ms. Degrassi depends.

The consequences of such a move will be tragic for this family. It will mean the end of Mr. Prasso’s highly accomplished career with DreamWorks, as well as, the end of the photography career Daniela Degrassi has worked so hard to build. In addition, both Mr. Prasso and Daniela Degrassi are eligible to become United States citizens this year.

I can think of no compelling reasons why the United States should not enable this family to continue as they have in California. Because of the substantial salary that Mr. Prasso and Daniela Degrassi earn and because of the monthly pension Ms. Degrassi receives from the Italian government, there is almost no chance that Ms. Degrassi will become a burden on the state or federal government.

In Mr. Prasso’s letter to me, he made this simple request, “We are looking forward to finding a permanent solution to this dilemma that does not involve dismembering this family or giving up on a wonderful job. A solution that will allow us to live a normal life like a normal family.”

We can make this solution a reality for Ms. Degrassi and this wonderful family. For that reason, I offer this private relief legislation and ask my colleagues to support it. Given these extraordinary and unique facts, I ask my colleagues to support this private relief bill on behalf of Ms. Degrassi.

I also 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. 118

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

SECTION 1. ADJUSTMENT OF STATUS.

(a) In General.—Notwithstanding any other provision of law or any order, for the purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Maria Cristina DeGrassi shall be deemed to have been lawfully admitted to, and remained in, the United States, and shall be eligible for issuance of an immigrant visa or for adjustment of status under the Immigration and Nationality Act (8 U.S.C. 1255).

(b) APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply only if the application for adjustment of status or for issuance of an immigrant visa or for adjustment of status is filed with appropriate fees within 2 years after the date of enactment of this Act.

(c) REDISTRIBUTION OF MIGRANT VISAS. —Upon the granting of an immigrant visa to Maria Cristina DeGrassi, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien’s birth under section 203 of the Immigration and Nationality Act (8 U.S.C. 1153(e), 1153(a)), as applicable.

By Mrs. FEINSTEIN (for herself, Ms. COLLINS, Mr. SCHUMER, Mr. HAGEL, Mr. DURBIN, Mr. DEWINE, Ms. CANTWELL, Mr. INOUYE, and Mr. FEINGOLD):

S. 119. A bill to provide for the protection of unaccompanied alien children, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I introduce today the “Unaccompanied Alien Child Protection Act of 2005”, legislation to reform the way the federal government treats unaccompanied alien children who are apprehended by federal immigration officials at our borders or within the United States.

I first introduced legislation similar to this bill during the 107th Congress and strongly believe that its passage is necessary to ensure the proper treatment of unaccompanied alien children within our federal system. With each passing year, as members realize the necessity for this legislation, the bill has moved forward along in the process.

I am pleased to be joined by Senators COLLINS, SCHUMER, HAGEL, DURBIN, DEWINE, CANTWELL, INOUYE and FEINGOLD as original co-sponsors of this legislation.

During the 108th Congress, the “Unaccompanied Alien Child Protection Act” passed the Senate by unanimous consent, after garnering no less than 34 co-sponsors. Unfortunately, the bill stalled in the House of Representatives.

So today I re-introduce this legislation, and again, this will be one of my top priorities. I believe we have a special obligation to ensure that every child that comes into contact with federal officials is afforded fair and humane treatment.

In 2004, approximately 6,200 unaccompanied alien children were apprehended by Department of Homeland Security officials and transferred to the care of the Office of Refugee Resettlement within the Department of Health and Human Services. This number has grown over the years and shows no signs of abating.

Thousands of foreign-born children under the age of 18 enter the United States each year unaccompanied by parents or other legal guardians. These children are among the most vulnerable of the immigrant population and these numbers are growing to continue to grow given the emphasis on enforcing actions by immigration officials—which I support—and the relatively unchanged conditions bringing them here.

These children are from all over the world, although the majority encountered by immigration officials today are from Honduras, Guatemala and El Salvador. Some are asylum seekers fleeing human rights and conflict in their homelands. Others are fleeing abuses specific to children, such as forced recruitment of child soldiers, forced prostitution and servitude, sexual slavery and exploitation, child labor, abuse of street children, child brides and female genital mutilation. Yet other children come to the United States because they have been abused, abandoned or neglected by their parents or caregivers. And finally, some seek to reunify with family members already in the United States or seeking a better life.

Historically, U.S. immigration law and policies have been developed and implemented without regard to their effect on children. This result has been similar to trying to fit a square peg in a round hole—it just doesn’t work.

Under current immigration law, these children are forced to struggle through a system designed for adults, through which they lack the capacity to understand nuanced legal principles or courtroom and administrative procedures. Because of this, children who may very well be eligible for relief are often vulnerable to being deported back to the very life-threatening situations from which they fled—before they are even able to make their cases before the Department of Homeland Security or an immigration judge.

Prior to March 1, 2003, the Immigration and Naturalization Service had responsibility for the care and treatment of unaccompanied alien children. Unfortunately, the Immigration and Naturalization Service fell short in
fulfilling these responsibilities. The legislation that I am introducing today builds on Section 462 of Public Law 107–296, the Homeland Security Act of 2002, which provided for the transfer of responsibility for the care and placement of unaccompanied alien children from the now-eliminated Immigration and Naturalization Service to the Office of Refugee Resettlement within the Department of Health and Human Services.

Section 462 was based on S. 121, comprehensive legislation relating to unaccompanied alien children that I introduced during the 107th Congress.

With the enactment of the Homeland Security Act of 2002, we set into motion the centralization of responsibility for the care and custody of unaccompanied alien children with the Office of Refugee Resettlement. The first phase of this transfer of responsibility occurred on March 1, 2003. Once the transition was completed, we finally resolved the conflict of interest inherent in the former system which pitted the enforcement side of the Immigration and Naturalization Service against the benefits side of that same agency in the care of unaccompanied alien children.

I am pleased that the provision transferring responsibility for the care and custody of unaccompanied alien children was contained in the Homeland Security Act of 2002, and that by all accounts the transition in the care of children between the affected agencies has gone well.

But, the transfer of authority to the Office of Refugee Resettlement—by itself—is not enough to ensure that these children are treated fairly and humanely. Congress now has a responsibility to go beyond the simple transfer to actually laying out the process and steps to ensure that unaccompanied alien children are treated fairly and humanely. The Department of Homeland Security and the Department of Justice must provide guidance and training to the Office of Refugee Resettlement, the Department of Homeland Security and the Department of Justice with the tools they will need to succeed in their mission to care for unaccompanied children.

First of all, I want to stress that this bill is not about benefits, as it provides no new immigration benefit to unaccompanied alien children. Rather, this bill is about the process of how we treat these children.

The “Unaccompanied Alien Child Protection Act” provides guidance and instruction to the Office of Refugee Resettlement, the Department of Homeland Security and the Department of Justice in the following areas:

First, in the custody, release, family reunification and detention of unaccompanied alien children;

Second, it provides access by unaccompanied alien children to guardians ad litem and pro bono counsel;

Third, it streamlines the Special Immigrant Juvenile (SIJ) program and provides guidance on the training of federal government officials and private parties who come into contact with unaccompanied alien children;

Fourth, it requires the issuance of guidelines specific to children’s asylum claims;

Fifth, it authorizes appropriations for the care of unaccompanied alien children;

Sixth, it amends the Homeland Security Act of 2002 to provide additional responsibilities and powers to the Office of Refugee Resettlement with respect to unaccompanied alien children.

Central throughout the “Unaccompanied Alien Child Protection Act” are two concepts:

The United States government has a fundamental responsibility to protect unaccompanied children in its custody; and in all proceedings and actions, the government should have as a priority protecting the interests of these children.

I first became involved in this issue in 2000 when I heard about a young 15-year-old Chinese girl who stood before a U.S. immigration court facing deportation proceedings with her hands chained to her wrist, like a criminal. She had found her way to the United States by stowing away in a container ship captured off of Guam, hoping to escape the repression she had experienced in her own country.

She had been placed on a boat bound for the United States by her very own parents, clinging to China’s rigid family planning laws. Under these laws, she was denied citizenship, education and medical care. She came to this country alone and desperate.

And what did our immigration authorities do when they found her? The Immigration and Naturalization Service detained her in a juvenile jail in Portland, Oregon for eight months before her asylum hearing, and more than seven weeks after she was granted asylum.

At her asylum hearing, the young girl stood before a judge, unrepresented by counsel, confused and unable to understand the proceedings against her. She could not wipe away the tears from her face because her hands were chained to her waist. According to a lawyer who later came to represent her, “her only crime was that her parents had put her on a boat so she could get a better life over here.”

While the young girl eventually received asylum in our country, she unnecessarily faced some ordeal no child should bear under our immigration system. This young Chinese girl represents only one of the more than 6,000 foreign-born children who, without parents or legal guardians to protect them, are discovered in the United States each year in need of protection.

This is unacceptable treatment and we have a responsibility to do better than this.

Imagine the fear of an unaccompanied alien child, in the United States alone, without a parent or guardian. Imagine that child being thrust into a system he or she does not understand, provided no access to pro bono counsel or guardians ad litem, placed in jail with adults or housed with juveniles with serious criminal convictions. I find it hard to believe that our country would allow children to be treated in such a manner.

That is why I am introducing this legislation today. The “Unaccompanied Alien Child Protection Act” will help our country fulfill the special obligation to these children to treat them fairly and humanely.

I am proud to have the support of the United States Conference of Catholic Bishops, the Women’s Commission on Refugee Women and Children, the Lutheran Immigration and Refugee Service, Amnesty International USA and the United Nations High Commissioner for Refugees, and many other organizations with whom I have worked closely to develop this legislation.

I urge my colleagues to join with me by cosponsoring this important measure and ensuring that these reforms are finally enacted.

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. 119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress ...
TITLE VI—AMENDMENTS TO THE HOMELAND SECURITY ACT OF 2002

Title VI—Amendments to the Homeland Security Act of 2002

Sec. 601. Additional responsibilities and powers of the Office of Refugee Resettlement with respect to unaccompanied alien children.

Sec. 602. Technical corrections.

Sec. 603. Effective date.

(1) Custody, release, family reunification, and detention


(a) Unaccompanied children found along the United States border or at United States ports of entry.

(1) In general.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child as described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the officer shall—

(A) permit such child to withdraw the child’s application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)); and

(B) return such child to the child’s country of nationality or country of last habitual residence.

(2) Special rule for contiguous countries.

(A) In general.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), if a determination is made on a case-by-case basis that—

(i) such child is a national or habitual resident of a country described in this subparagraph;

(ii) such child does not have a fear of returning to the child’s country of nationality or country of last habitual residence owing to a fear of persecution;

(iii) the return of such child to the child’s country of nationality or country of last habitual residence would not endanger the life or safety of such child; and

(iv) the child is able to make an independent decision to withdraw the child’s application for admission due to age or other lack of capacity.

(B) Right of consultation.

Any child described in subparagraph (A) shall have the right, and shall have the right of that right in the child’s native language—

(i) to consult with a consular officer from the child’s country of nationality or country of last habitual residence prior to repatriation; and

(ii) to consult, telephonically, with the Office.

(3) Rule for apprehensions at the border.

The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with subsection (b).

(b) Care and custody of unaccompanied alien children found in the interior of the United States.

(1) Establishment of jurisdiction.

(A) In general.—Except as otherwise provided under paragraphs (B) and (C) and subsection (a), the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be under the jurisdiction of the Office.

(B) Exception for children who have committed crimes.

Notwithstanding subparagraph (A), the Director shall retain or assume the custody and care of any unaccompanied alien child who—

(i) has been charged with any felony, excluding offenses proscribed by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), while such charges are pending; or

(ii) has been convicted of any such felony.

(C) Exception for children who threaten national security.

Notwithstanding subparagraph (A), the Director shall retain or assume the custody and care of any unaccompanied alien child if the Secretary has substantial evidence, based on an individualized determination, that such child could potentially endanger the national security of the United States.

(D) Trafficking victims.

For purposes of section 101(a) of the Homeland Security Act of 2002 (6 U.S.C. 279) and this Act, the Secretary shall provide for the treatment under section 102(a)(1) of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386), shall be considered to be in the custody of the Office.

(2) Notification.

(A) In general.—The Secretary shall promptly notify the Office upon—

(i) the apprehension of an unaccompanied alien child;

(ii) the discovery that an alien in the custody of the Director is an unaccompanied alien child;

(iii) any claim by an alien in the custody of the Director that such alien is under the age of 18; or

(iv) any suspicion that an alien in the custody of the Director has claimed to be over the age of 18 is actually under the age of 18.

(B) Special rule.

In the case of an alien described in clause (ii) or (iv) of subparagraph (A), the Director shall make an age determination in accordance with section 105 and take whatever other steps are necessary to determine whether such alien is eligible for treatment under section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act.

(3) Transfer of unaccompanied alien children.

(A) Transfer to the office.

The care and custody of an unaccompanied alien child shall be transferred to the Office—

(i) in the case of a child not described in subparagraph (B) or (C) of paragraph (1), not later than 72 hours after a determination is made that such child is an unaccompanied alien child;

(ii) in the case of a child whose custody and care has been retained or assumed by the Director pursuant to subparagraph (B) or (C) of paragraph (1), immediately following a determination that the child no longer meets the description set forth in such subparagraphs; or

(iii) in the case of a child who was previously released to an individual or entity described in section 102(a)(1), upon a determination by the Director that such individual or entity is no longer able to care for the child.

(B) Transfer to the directorate.

Upon determining that a child in the custody of the Office is described in subparagraph (B) or (C) of paragraph (1), the Director shall transfer the care and custody of such child to the Directorate.

(C) Promptness of transfer.

In the event of a need to transfer a child under this paragraph, the sending office shall make prompt arrangements to transfer such child and the receiving office shall make prompt arrangements to receive such child.

(D) Determination.

In any case in which the age of an alien is in question and the resolution of questions about the age of such alien would affect the alien’s eligibility and the alien’s receipt of benefits under the Homeland Security Act of 2002 (6 U.S.C. 279) or this Act, a determination of whether or not such
alien meets such age requirements shall be made by the Director in accordance with section 105.

SEC. 102. FAMILY REUNIFICATION FOR UNACCOMPANIED ALIEN CHILDREN WITH RELATIVES IN THE UNITED STATES.

(a) Placement Authority.—

(1) Preference.—Subject to the discretion of the Director under paragraph (4), section 103(a)(2), and section 422(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(2)), an unaccompanied alien child in the custody of the Office shall be promptly placed with 1 of the following individuals or entities in the following order of preference:

(A) A parent who seeks to establish custody, as described in paragraph (3)(A).

(B) A legal guardian who seeks to establish custody, as described in paragraph (3)(A).

(C) An adult relative.

(D) An individual or entity designated by the parent or legal guardian that is capable and willing to care for the well-being of the child.

(E) A State-licensed juvenile shelter, group home, or foster care program willing to accept physical custody of the child.

(F) A qualified adult or entity seeking custody of the child when it appears that there is no other likely alternative to long-term detention and reunification does not appear to be a reasonable alternative. For purposes of this subparagraph, the Office shall decide who is a qualified adult or entity and promulgate regulations in accordance with such decision.

(2) Suitability Assessment.—Notwithstanding paragraph (1), no unaccompanied alien child shall be placed with a person or an entity unless a valid suitability assessment conducted by an agency of the State of the child’s proposed residence, by an agency authorized by that State to conduct such an assessment, or by an appropriate voluntary agency contracted with the Office to conduct such assessments, has found that the person or entity is capable of providing for the child’s physical and mental well-being.

(3) Right of Parent or Legal Guardian to Custody of Unaccompanied Alien Child.—

(A) Placement with Parent or Legal Guardian.—If an unaccompanied alien child is placed with any person or entity other than a legal guardian, a relative frequent to that placement a parent or legal guardian seeks to establish custody, the Director shall—

(i) determine the suitability of placing the child with the parent or legal guardian; and

(ii) make a written determination on the child’s placement within 30 days.

(B) Right of Children.—Nothing in this Act shall be construed to—

(i) supersede obligations under any treaty or other international agreement to which the United States is a party, including the Hague Convention on the Civil Aspects of International Child Abduction, the Vienna Declaration and Program of Action, and the Declaration on the Rights of Children;

(ii) limit any right or remedy under such international agreement.

(4) Protection from Smuggling and Trafficking Activities.—

(A) Policies and Programs.—

(i) In General.—The Director shall establish policies and programs to ensure that unaccompanied children are protected from smugglers, traffickers, or other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.

(ii) Witness Protection Programs Included.—Programs established pursuant to clause (i) may include witness protection programs.

(B) Criminal Investigations and Prosecutions.—Any officer or employee of the Office or the Department of Homeland Security, and any grantee or contractor of the Office, who suspects any individual of involvement in any activity described in subparagraph (A) shall report such individual to the offices of the Office or State prosecutors for criminal investigation and prosecution.

(C) Disciplinary Action.—Any officer or employee of the Office, the Department of Homeland Security, and any grantee or contractor of the Office, who suspects an attorney involved in any activity described in subparagraph (A) shall report the individual to the State bar association of which the attorney is a member, or to other appropriate disciplinary authorities, for appropriate disciplinary action, which may include private or public admonition or censure, suspension, or disbarment of the attorney from the practice of law.

(D) Notification of Children.—The Director may award grants to, and enter into contracts with, voluntary agencies to carry out this section or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(6) Reimbursement of State Expenses.—The Director may reimburse States for any expenses they incur in providing assistance to unaccompanied alien children who are served pursuant to this Act or section 462 of the Homeland Security Act of 2002 (6 U.S.C. 279).

(b) Confidentiality.—All information obtained by the Office relating to the immigration status of a person described in subparagraphs (A), (B), and (C) of subsection (a)(1) shall remain confidential and may be used only for the purposes of determining such person’s qualifications under subsection (a)(1).

(c) Required Disclosure.—The Secretary of Health and Human Services or the Secretary of Homeland Security shall provide the information required under this section, and any other information derived from such furnished information, to—

(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), when such information is requested in writing by such entity; or

(2) an official coroner for purposes of affirmation of death of an individual (whether or not such individual is deceased as a result of a crime).

(d) Penalty.—Whoever knowingly uses, publishes, or communicates any information to which he has access in violation of this section shall be fined not more than $10,000.

SEC. 103. APPROPRIATE CONDITIONS FOR DETENTION OF UNACCOMPANIED ALIEN CHILDREN.

(a) Standards for Placement.—

(1) Prohibition of Detention in Certain Facilities.—Except as provided in paragraph (2), an unaccompanied alien child shall not be placed in an adult detention facility or a facility housing status-detained children.

(2) Detention in Appropriate Facilities.—An unaccompanied alien child who has exhibited a violent or criminal behavior that endangers others may be detained in conditions appropriate to such behavior in a facility appropriate for delinquent children.

(b) Conditions of Detention.—

(1) In General.—The Director and the Secretary of Homeland Security shall promulgate regulations to establish standards for conditions of detention in such placements that provide for—

(i) educational services appropriate to the child;

(ii) medical care;

(iii) mental health care, including treatment for trauma, physical and sexual violence, or abuse;

(iv) access to telephones;

(v) access to legal services;

(vi) access to interpreters;

(vii) supervision by professionals trained in the care of children, taking into account the special cultural, linguistic, and experiential needs of children in immigration proceedings;

(viii) recreational programs and activities;

(ix) spiritual and religious needs; and

(x) other conditions necessary to ensure the well-being of the child.

(c) Prohibition of Certain Practices.—The Director and the Secretary shall develop procedures prohibiting the unreasonable use of—

(1) shackling, handcuffing, or other restraint on children;

(2) corporal punishment; or

(3) pat or strip searches.

(d) Rule of Construction.—Nothing in this section shall be construed to supersede procedures favoring release of children to appropriate adults or entities or placement in the least secure setting possible, as defined in the Stipulated Settlement Agreement under Flores v. Reno.

SEC. 104. REPATRIATION UNACCOMPANIED ALIEN CHILDREN.

(a) Country Conditions.—

(1) Sense of Congress.—It is the sense of Congress that, to the extent consistent with the treaties and other international agreement in which the United States is a party, and to the extent practicable, the United States Government should undertake efforts to ensure that it does not repatriate children in its custody into settings that would threaten the life and safety of such children.

(2) Assessment of Conditions.—

(A) In General.—The annual Country Reports on Human Rights Practices published by the Department of State shall contain an assessment of the degree to which each country protects children from smugglers and traffickers.

(B) Factors for Assessment.—The Director shall consult the Country Reports on Human Rights Practices and the Trafficking in Persons Report in assessing whether to repatriate an unaccompanied alien child to a particular country.

(b) Report on Repatriation of Unaccompanied Alien Children.—

(1) In General.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on efforts to repatriate unaccompanied alien children.

(2) Contents.—The report submitted under paragraph (1) shall include—

(A) the number of unaccompanied alien children ordered removed and the number of such children actually removed from the United States;

(B) a description of the type of immigration relief sought and denied to such children;

(C) a statement of the nationalities, ages, and gender of such children;

(D) a description of procedures used to effect the removal of such children from the United States.
SEC. 105. ESTABLISHING THE AGE OF AN UNACCOMPANIED ALIEN CHILD.

(a) Procedures.

(1) IN GENERAL.—The Director shall develop procedures to make a prompt determination of the age of an alien in the custody of the Department of Homeland Security or the Office, when the age of the alien is at issue.

(2) EVIDENCE.—The procedures developed under paragraph (1) shall—

(A) permit the presentation of multiple forms of evidence, including testimony of the child, to determine the age of the unaccompanied alien for purposes of placement, custody, parole, and detention; and

(B) allow the appeal of a determination to an immigration judge.

(3) ACCESS TO ALIEN.—The Secretary of Homeland Security shall permit the Office to have reasonable access to aliens in the custody of the Secretary so as to ensure a prompt determination of the age of such alien.

(b) Prohibition on sole means of determining age.

(1) IN GENERAL.—No person shall be declared to be an alien under this section if the age of such alien is not determined in accordance with procedures developed under paragraph (1) of subsection (a).

SEC. 106. EFFECTIVE DATE.

This title shall take effect on the date which is 90 days after the date of enactment of this Act.

TITLE II—ACCESS BY UNACCOMPANIED ALIEN CHILDREN TO GUARDIANS AD LITEM AND COUNSEL

SEC. 201. GUARDIANS AD LITEM.

(a) Establishment of Guardian Ad Litem Program.

(1) APPOINTMENT.—The Director may appoint a guardian ad litem, who meets the qualifications described in paragraph (2), for an unaccompanied alien child. The Director is encouraged to enter into contracts with agencies under this subsection.

(b) Qualifications of Guardian Ad Litem.

(1) IN GENERAL.—No person shall serve as a guardian ad litem unless the person—

(A) is a child welfare professional or other individual who has received training in child welfare matters; and

(B) possesses special training on the nature of problems encountered by unaccompanied alien children.

(2) PROHIBITION.—A guardian ad litem shall not—

(A) conduct interviews with the child in a manner that is appropriate, taking into account the child’s age;

(B) investigate the facts and circumstances relevant to the child’s presence in the United States, including facts and circumstances—

(i) arising in the country of the child’s nationality or last habitual residence; and

(ii) relating to the child’s departure from such country;

(C) work with counsel to identify the child’s eligibility for relief from removal or voluntary departure, sharing with counsel information collected under subparagraph (B); and

(D) develop recommendations on issues relative to the child’s custody, detention, release, and repatriation;

(E) take reasonable steps to ensure that all proceedings or matters under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and the Judicial Code of the United States are in the best interests of the child;

(F) the child understands the nature of the legal proceedings or matters and determinations made by the court, and that all information is conveyed to the child in an age-appropriate manner; and

(G) report factual findings relating to—

(i) information collected under subparagraph (B);

(ii) the care and placement of the child during the pendency of the proceedings or matters; and

(iii) any other information collected under subparagraph (D).

(2) TERMINATION OF APPOINTMENT.—The guardian ad litem shall carry out the duties described in paragraph (3) until the earliest of the date on which—

(A) those duties are completed;

(B) the child is removed by an immigration court to another country;

(C) the child is granted permanent resident status in the United States;

(D) the child attains the age of 18; or

(E) the child is placed in the custody of a parent or legal guardian.

(3) POWERS.—The guardian ad litem shall—

(A) have access to the child, including access while such child is being held in detention or in the care of a foster family;

(B) shall be permitted to review all records and information relating to such proceedings that are not deemed privileged or classified; and

(C) may seek independent evaluations of the child.

(4) SELECTION OF SITE.

(A) SELECTION OF SITE.—To the maximum extent practicable, the Director shall select 3 sites in which to operate the pilot program established under paragraph (1).

(B) ACCESS TO COUNSEL.—To the maximum extent practicable, the Director shall ensure that all unaccompanied alien children in the custody of the Office or the Director, who are not described in section 101(a)(2), have competent counsel to represent them in immigration proceedings or matters.

(C) CONTRACTING AND GRANT MAKING AUTHORITY.—

(A) IN GENERAL.—The Director shall enter into contracts with, or award grants to, nonprofit agencies with relevant expertise in the delivery of immigration-related services to children in order to carry out the responsibilities of this Act, including providing legal orientation, screening cases for referral, recruiting, training, and overseeing pro bono attorneys.

(B) SUBCONTRACTING.—Nonprofit agencies may enter into subcontracts with, or award grants to, private vendors with a relevant expertise in the delivery of immigration-related services to children in order to carry out this subsection.

(D) CONSIDERATIONS REGARDING GRANTS AND CONTRACTS.—In awarding grants and entering into contracts with agencies under this paragraph, the Director shall take into consideration the capacity of the agencies in questions properly administered the services covered by such grants or contracts without an undue conflict of interest.

(E) MODEL GUIDELINES ON LEGAL REPRESENTATION OF CHILDREN.—

(A) DEVELOPMENT OF GUIDELINES.—The Executive Office for Immigration Review, in consultation with voluntary agencies and national experts, shall develop model guidelines for the legal representation of alien children in immigration proceedings. Such guidelines shall be based on the children’s asylum guidelines, the American Bar Association Model Rules of Professional Conduct, and other relevant domestic or international sources.

(B) PURPOSE OF GUIDELINES.—The guidelines developed under subparagraph (A) shall—

(1) promote the development of successful systems for the representation of alien children in the Office.
be designed to help protect each child from any individual suspected of involvement in any criminal, harmful, or exploitive activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

(C) IMPLEMENTATION.—The Executive Office for Immigration Review shall adopt the guidelines developed under subparagraph (A) and submit the guidelines for adoption by national, State, and local bar associations.

(b) Notwithstanding,—

(1) represent the unaccompanied alien child in all proceedings and matters relating to the immigration status of the child or other family members;

(2) appear in person for all individual merits hearings before the Executive Office for Immigration Review and interviews involving the Directorate; and

(3) owe the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due an adult client.

(c) ACCESS TO CHILD.—

(1) IN GENERAL.—Counsel shall have reasonable access to an unaccompanied alien child, including access while the child is being held in detention, in the care of a foster family, or in any other setting that has been determined by the Office.

(2) RESTRICTION ON TRANSFERS.—Absent compelling and unusual circumstances, no child who is represented by counsel shall be transferred from the child’s placement to another placement unless advance notice of at least 24 hours is made to counsel of such transfer.

(3) NOTICE TO COUNSEL DURING IMMIGRATION PROCEEDINGS.—

(a) Access to Recommendations of Guardian Ad Litem.—Counsel shall be given an opportunity to review the recommendation by the guardian ad litem to any proceeding involving the placement of the child, provided the child is an unaccompanied alien child, including, but not limited to, any immigration action, including consents to voluntary departure, unless first afforded an opportunity to consult with counsel.

(e) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be given an opportunity to review the recommendations by the guardian ad litem to any proceeding involving the placement of the child, provided the child is an unaccompanied alien child, including, but not limited to, any immigration action, including consents to voluntary departure, unless first afforded an opportunity to consult with counsel.

(4) OTHER PROVISIONS.—The Executive Office for Immigration Review shall adopt the guidelines developed under subparagraph (A) to the extent that such guidelines are designed to help protect each child from any individual suspected of involvement in any criminal, harmful, or exploitive activity associated with the smuggling or trafficking of children, while ensuring the fairness of the removal proceeding in which the child is involved.

(3) An analysis of the worldwide situation or the capacity of the international community to respond to needs identified in paragraphs (1) and (2) (including in respect of the numbers of refugees and of unaccompanied alien children described in section 301(a)(2) of this Act) is necessary to help the Secretary of Homeland Security make decisions about the immigration benefit to that alien, except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

(b) ADJUSTMENT OF STATUS.—The provisions of this Act are amended as follows:

(1) IN GENERAL.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien, except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

(4) any other information that the Director or the Secretary of Health and Human Services believes to be appropriate.

TITLES IV—CHILDREN REFUGEE AND ASYLUM SEEKERS

SEC. 401. GUIDELINES FOR CHILDREN’S ASYLUM CLAIMS.

(a) SENSE OF CONGRESS.—Congress commends the Immigration and Naturalization Service for its issuance of its “Guidelines for Children’s Asylum Claims,” dated December 15, 1998, and encourages and supports the implementation of such guidelines by the Immigration and Naturalization Service and its successors in efforts to facilitate the handling of children’s asylum claims.

(b) TRAINING.—The Secretary shall provide periodic comprehensive training under the “Guidelines for Children’s Asylum Claims” to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to facilitate and sensitize such officers to the needs of children asylum seekers. Voluntary agencies providing services to unaccompanied alien children are encouraged to include such training in their programs.

SEC. 402. UNACCOMPANIED REFUGEE CHILDREN.

(a) IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.—Section 207(e) of the Immigration and Nationality Act (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), and (7), respectively; and

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

“(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region, which shall include an assessment of—

(A) the number of unaccompanied refugee children, by region; and

(B) the capacity of the Department of State to identify such refugees;

(C) the capacity of the international community to care for and protect such refugees;

(D) the capacity of the voluntary agency community to resettle such refugees in the United States; and

(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.”...
for all unaccompanied alien children
and continued suitability of such placements;
regular follow-up visits to such facilities,
that are not in compliance with such condi-
tions; and

for the conduct of their previous attorney.
Perhaps one of the most compelling
reasons for permitting the family to
remain in the United States is the dev-
astating impact their deportation would
have on their children—three of
whom are U.S. citizens, as I stated ear-
er, and the other two who have lived
in the United States since they were
toddlers. For these children, this
country is the only country they really
know.

Nayely, the oldest, is a freshman at
Fresno Pacific University. She was the
first in her family to graduate from
high school and the first to attend col-
lege. She attends Fresno Pacific Uni-
versity, a regionally ranked university,
on a full tuition scholarship package
and works part-time in the admissions
office.

At her young age, Nayely has dem-
strated a strong commitment to the
ideals of citizenship in her adopted
country. She has worked hard to
achieve her full potential both in her
academic endeavors and through the
service she provides her community.
As the leaders of Fresno Pacific Uni-
versity saw in Nayely, a young
person who will become exemplary of
all that is good in the American
dream.

In high school, Nayely was a member
of Advancement Via Individual Deter-
mination, AVID, a college preparatory
program in which she participates
to determine her own futures through
achieving a college degree. Nayely was
also president of the Key Club, a com-
munity service organization. She
helped mentor freshmen and partici-
pates in several other student organi-
zations in her school. Perhaps the
greatest hardship to this family, if
forced to return to Mexico, will be her
lost opportunity to realize her dreams
and further contribute to her commu-
nity and to this country.

It is clear to me that Nayely feels a
strong sense of responsibility for her
community and country. By all indica-
tions, this is the case as well for all of
the members of her family.
The Arreolas also have other family
who are lawful permanent residents
of this country or United States citizens.
Mrs. Arreola has three brothers who
are U.S. citizens and Mr. Arreola has a
sister who is a U.S. citizen. It is also
my understanding that they have no
immediate family in Mexico.

According to immigration authori-
ties, this family has never had any
problems with law enforcement. I am
amazed that they have had problems for
every year from 1990 to the present.
They have always worked hard to sup-
port themselves. As I previously men-
tioned, Mr. Arreola was previously em-
ployed as a farm worker, but now has
his own business repairing electronics.
His business has been successful
enough to enable him to purchase a
home for his family.
VerDate Aug 31 2005 05:58 Dec 29, 2006 Jkt 059060 PO 00000 Frm 00204 Fmt 0637 Sfmt 0634 E:\RECORDCX\T37X$J0E\S24JA5.REC S24JA5hmoore on PROD1PC68 with CONG-REC-ONLINE

It seems so clear to me that this family has embraced the American dream and their continued presence in our country would do so much to enhance the values we hold dear. Enactment of the legislation I have introduced today will enable the Arreolas to continue to make such significant contributions to their community as well as the United States. I ask my colleagues to support this private bill. I also ask unanimous consent that the text of the legislation be printed in the RECORD and that the three letters of community support be printed in the RECORD.

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

S. 120

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

SECTION 1. ADJUSTMENT OF STATUS.

(a) In General.—Notwithstanding any other provision of any order, for the purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Esidronio Arreola-Saucedo, Maria Elena Cobian Arreola, Nayely Bibiana Arreola, Cindy Jael Arreola, the oldest daughter, has continued to be deemed to have been lawfully admitted to, and remained in, the United States and shall be eligible for issuance of an immigrant visa or for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255).

(b) APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply only if the applications for issuance of immigrant visas or the applications for adjustment of status are filed with appropriate fees within 2 years after the enactment of this Act.

(c) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of immigrant visas to Esidronio Arreola-Saucedo, Maria Elena Cobian Arreola, Nayely Bibiana Arreola, and Cindy Jael Arreola, the Secretary of State shall instruct the proper officer to reduce by 4, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 202(e) or 202(a) of the Immigration and Nationality Act (8 U.S.C. 1152(e), 1153(a)), as applicable.

FRESNO PACIFIC UNIVERSITY.

HON. DIANNE FEINSTEIN.

WASHINGTON, DC.

SERNATOR FEINSTEIN: I am writing to ask you to continue your support for the Arreola family of Porterville, CA, and to ask you to reintroduce a private bill to grant the family permanent residency. It is laudable that you came to this families aid in May 2003 because of a grievous error committed by their former immigration attorney. You recognized the outstanding academic achievements of Nayely, Esidronio and Maria Arreola's oldest daughter, as one of the most compelling reasons to allow the family to remain in the United States. You recognized that the "Arreola family had and continues to embrace the American dream and that their continued presence in our country would enhance the values that we as Americans hold dear." Unfortunately the private bill you introduced into last session died and the family is in need of your support again.

You were right about Nayely!!! Nayely Arreola, the oldest daughter, has continued in her academic achievements and community service. The leaders at Fresno Pacific University saw in Nayely, a young person who will become exemplary of all that is good in the American dream. She has heart in the face of tough times, desire leading to solid community service, and leadership that is without equal. It is with this in mind that I urge you to reintroduce this legislation so that this family can remain in the United States and continue to make such significant contributions to our country.

Sincerely yours,

VERLY ANN DUNCAN.

PRINCIPAL.

GRANITE HILLS HIGH SCHOOL.

PORTERVILLE, CA.

DEAR SENATOR FEINSTEIN: I am writing you this letter on behalf of Nayely Arreola and her family. You recognized the Arreola family as one of the most compelling reasons to allow the family to remain in the United States and continue to make significant contributions to our country.

Nayely has become a role model of success with a solid foundation in community service, and leadership that is without equal. It is with this in mind that I urge you to reintroduce this legislation so that this family can remain in the United States and continue to make such significant contributions to our country.

Sincerely yours,

CARY W. TEMPLETON.

ASSOCIATE DEAN OF ENROLLMENT SERVICES.

GRANITE HILLS HIGH SCHOOL.

PORTERVILLE, CA.

January 14, 2005.

DEAR SENATOR FEINSTEIN: This letter is in support of Granite Hills High School graduate Nayely Arreola whom I have had the pleasure of knowing for the past four and one-half years. Nayely is a responsible, hard working and intelligent young lady.

Nayely was born in Mexico; English is her second language. She came to the Untied States when she was approximately five years old. When Nayely enrolled in high school at Granite Hills High School she was enrolled in our AVID program. AVID, "Advisement via Individual Determination", is a program for students who have the ability and desire to go to college but no one in their family has attended college.

Nayely took our AVID program and Granite Hills High School with honors, was a speaker at our graduation ceremonies and is highly regarded and respected by her peers and our teachers. Upon graduation, she earned The Good Samaritan Scholarship to go to Fresno Pacific University where she will excel as she did here I am sure. She will be successful in any career she pursues. Her parents have a great pride in her outstanding job. I wish I had done as well with my children.

Cindy Arreola, Nayely's younger sister, is currently a student at Granite Hills High School.

We need more families like the Arreolas in this country and to ask you to reintroduce this legislation so that this great family can remain in the United States and continue to make such significant contributions to our country. Thank you for supporting them.

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Nayely took our AVID program and Granite Hills High School with honors, was a speaker at our graduation ceremonies and is highly regarded and respected by her peers and our teachers. Upon graduation, she earned The Good Samaritan Scholarship to go to Fresno Pacific University where she will excel as she did here I am sure. She will be successful in any career she pursues. Her parents have a great pride in her outstanding job. I wish I had done as well with my children.

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Sincerely yours,

CARY W. TEMPLETON.

ASSOCIATE DEAN OF ENROLLMENT SERVICES.
to improve critical survivor benefits for those families who have lost a loved one on active duty.

Our legislation would amend four key benefit programs to improve the overall quality of life for survivors and dependent children. First, it would increase the death gratuity to $100,000 and create a death gratuity for each child under the age of 18 in the amount of $25,000. Currently, the gratuity for spouses is just $12,000, while no benefit exists for dependent children. This change would provide flexibility for the spouse in maintaining a home, paying off remaining debt, and providing immediate funds to transition the family to a life without the service member. Additionally, the dependent benefit would offer surviving children an initial investment that can be used to transition to adulthood, for example, as a down payment on a house or for college tuition.

Second, our legislation would extend military health insurance, known as TRICARE Prime, to every dependent child of a deceased service member at no cost until the age of 21, or until 23 if the dependent attends college. The Department of Defense indicated that this proposal would provide dependents approximately $15,000 per year compared to the cost of private health insurance premiums. Expanded TRICARE coverage also guarantees that surviving dependents would continue to have access to some of the best doctors this country has to offer and would receive adequate health care and treatment.

Third, our legislation would increase the dependency and indemnity compensation, or DIC, for a spouse to $1500 per month, as well as $750 per month for each child. In July 2004, the Government Accountability Office released a report titled ‘Military Personnel: Survivors Benefits for Service Members and Federal, State, and City Employees.’ This report outlined hypothetical situations to demonstrate the benefits received at certain pay grades. This report indicated that an E-3, meaning a Private First Class or a Lance Corporal, with two dependents and three years of service would receive $1,182 per month from the Survivor Benefit Plan, SBP, and $1208 per month for DIC. This equals $28,680 per year for the family to live on if the surviving spouse is not employed.

In 2003, the USDA Center for Nutrition Policy and Promotion released a report on the costs associated with raising children. The study indicated that, on average across the United States, families spent between $9,500 and $10,500 per child on expenses in a two child, husband-wife family. Further, this study indicated that families with a household income below $47,000 per year were only able to spend from $7000 to $8000 per year on expenses to raise the child. For the hypothetical family I just described, it would cost more than $18,000 per year just to meet the expenses of raising the two dependents.

However, since the household income, if the surviving spouse is not employed, would reach just $28,860, then it is likely that only about $14,000 will be spent for that purpose. Clearly, that’s just not enough. Our bill would help ensure that the essential needs of the family can be met.

Finally, our legislation would increase the benefits available from the Survivors’ and Dependents’ Educational Assistance Program. It would eliminate the current 45 month cap on benefits payable, and establish an $80,000 lump sum that can be drawn down for any educational expenses, including tuition, fees, room, board, and books. Under current law, a survivor only has access to about $38,507 if he/she attends college or a trade school on a full-time basis. As we know, this amount would not even guarantee a survivor access to a college degree from a state university. In fact, let’s use the Ohio State University as an example. This public institution will cost state students only $65,000 for the 2004-2005 school year. Now, if there were no cost increases over the course of a four year matriculation, which, in this day and age, is an unrealistic assumption, a degree from OSU would cost $75,600. That is $36,733 more than the current benefit available from the Department of Veterans Affairs. Clearly a gap exists.

Mr. President, we owe the families of those who have lost loved ones in active duty our gratitude and support. The President’s inauguration last week reminded me of something President Abraham Lincoln said in his second inaugural address. He said this: ‘With Malice toward none, with Charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation’s wounds, to care for him who shall have borne the battle and for his widow and his orphan. . . . It is time to do a better job of caring for these families.’ I believe that this Congress does what is right. I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

Being no objection, the bill was ordered to be printed in the RECORD.

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

S. 121
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEATH GRATUITY PAYABLE WITH RESPECT TO DECEASED MEMBERS WHO DIED MORE THAN 30 DAYS AFTER THEIR DEATH FOR WHICH A DEATH GRATUITY IS PAYABLE.--(1) INCREASED AMOUNT OF DEATH GRATUITY.—Section 1479(g) of title 10, United States Code, is amended by—

(a) inserting in section 1479(g)—

(1) by striking the second sentence and inserting the following after the first sentence:—

(b) ADDITIONAL DEATH GRATUITY PAYABLE TO CHILD OF DECEASED.—(1) PAYMENT.--Section 1477(e) of such title is amended by—

(A) striking the first sentence and inserting the following after the first sentence:—

(B) inserting (i) in the place provided for the word ‘(c)’ and (ii) in the place provided for the word ‘(d)’

(2) AMOUNT.—(A) Subsection (a) of section 1478 of such title is amended by—

(A) striking the second sentence and inserting the following after the first sentence:—

(B) inserting in such subsection—

(C) Ichtheus.—(1) IN GENERAL.—As provided in paragraph (2), this section and the amendments made by this section shall take effect as of October 1, 2001, and shall apply with respect to deaths occurring on or after such date.

(2) EXCEPTION.—The amendments made by subsection (b)(1) shall take effect as of October 28, 2004, immediately following the enactment of Public Law 108-375.

SEC. 2. INCREASED PERIOD OF CONTINUED TRICARE COVERAGE OF CHILDREN OF MEMBERS OF THE UNIFORMED SERVICES WHO DIE WHILE SERVING ON ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.

(a) PERIOD OF ELIGIBILITY.—Section 1079(g) of title 10, United States Code, is amended—

(A) by inserting in such section—

(i) in section 1079(g)—

(B) by striking the second sentence and inserting the following:

(ii) in subsection (c) of such section—

(1) in the case of a child of the deceased, the period of continued eligibility shall be the longer of the following periods beginning on such date:

(A) Three years.

(B) The period ending on the date on which the child attains 21 years of age.

(2) for benefits under such title, such child's parent shall be eligible for continued benefits during the three-year period beginning on the date of the member's death; except that, in the case of such a dependent who is a child of the deceased, the period of continued eligibility shall be the longer of the following periods beginning on such date:

(A) Five years.

(B) The period ending on the date on which the child attains 25 years of age.

(C) In the case of a child of a deceased who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of the child's support, the period ending on the earlier of the following dates:

(i) The date on which the child ceases to pursue such a course of study, as determined by the administering Secretary.

(ii) The date on which the child attains 25 years of age.
“(3) For the purposes of paragraph (2)(C), a child shall be treated as being enrolled in a full-time course of study in an institution of higher education during any reasonable period or periods of absence from such child’s completion of a full-time course of study in a secondary school and the commencement of an enrollment in a full-time course of study in an institution of higher education, determined by the administering Secretary.

“(4) No charge may be imposed for any benefit provided under this chapter for a child, other than the basic rate payable under section 3542, for any portion of such time that the child is below the age of 18.

“(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect as of October 1, 2001, and shall apply with respect to deaths occurring on or after such date.

SEC. 3. INCREASE AND ENHANCEMENT OF DEPENDENCY AND INDEPENDENCY COMPENSATION FOR SURVIVING SPOUSES.

(a) IN GENERAL.—Subsection (a) of section 1311 of title 38, United States Code, is amended—

(1) in paragraph (1), by striking “$967” and inserting “$1,500”;

(2) in paragraph (2), by inserting “or (4)” after “paragraph (1)”;

and

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

“(4) In the case of a surviving spouse who remaries, dependency and indemnity compensation payable to the surviving spouse at a monthly rate equal to 50 percent of the monthly rate otherwise provided under paragraph (1) for—

(A) the first 60 months beginning after the date of remarriage; or

(B) in the case of a surviving spouse with one or more children below the age of 18, each month until the first month beginning after the month in which each such child has attained the age of 18.”

(b) RATES FOR SURVIVING SPOUSES WITH DEPENDENT CHILDREN.—Such section is further amended—

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

“(b)(1) If there is a surviving spouse with one or more children below the age of 18, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $750 for each such child.

“(2) In the case of a surviving spouse with one or more children below the age of 18, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $750 for each such child.

“(3) In the case of a surviving spouse who remaries, dependency and indemnity compensation payable to the surviving spouse at a monthly rate equal to 50 percent of the monthly rate otherwise provided under paragraph (1) for—

(A) the first 60 months beginning after the date of remarriage; or

(B) in the case of a surviving spouse with one or more children below the age of 18, each month until the first month beginning after the month in which each such child has attained the age of 18.”

(2) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect as of October 1, 2001, and shall apply with respect to deaths occurring on or after such date.

SEC. 4. EXPANSION AND ENHANCEMENT OF SURVIVORS AND DEPENDENTS’ EDUCATIONAL ASSISTANCE.

(a) TERMINATION OF DURATIONAL LIMITATION ON EDUCATIONAL ASSISTANCE.—

(1) TERMINATION OF LIMITATION AND RESUMPTION OF CONTINUING REQUIREMENTS.—

Subsection (a) of section 3511 of title 38, United States Code, is amended to read as follows:

“(a)(1) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of educational assistance described in paragraph (2) shall not be charged against the entitlement of any individual under this title.

“(2) The payment of educational assistance referred to in paragraph (1) is the payment of such assistance to an individual for pursuit of one or more courses under this chapter if the Secretary finds that the individual—

“(A) had to discontinue such course pursuant as a result of being ordered to serve on active duty after October 1, 1990, or

(B) failed to receive credit or training time toward completion of the individual’s approved educational, professional, or vocational objective as a result of having to discontinue, as described in subparagraph (A), the course pursuit.

“(c) AMOUNT OF EDUCATIONAL ASSISTANCE.—In general.—Subsection (c) of section 3511 of title 38, United States Code, is amended to read as follows:

“$3511. Amount of educational assistance

“(a) The aggregate amount of educational assistance to which an eligible person is entitled under this chapter is $30,000, as increased from time to time under section 3504 of this title.

“(b) Within the aggregate amount provided for in subsection (a), educational assistance under this chapter may be paid for any purpose, and in any amount, as follows:

“(1) A program of education consisting of institutional courses.

“(2) A full-time program of education that consists of institutional courses and alternate phases of training in a business or industrial establishment, the training in the business or industrial establishment being strictly supplemental to the institutional portion.

“(3) A full-time program of education that consists of educational assistance described in paragraph (1).
Mr. FEINGOLD. Mr. President, today I introduce the Federal Death Penalty Abolition Act of 2005. This bill would abolish the death penalty at the Federal level. It would put an immediate halt to executions and forbid the imposition of the death penalty as a sentence for violations of Federal law.

Since 1976, when the death penalty was reinstated by the Supreme Court, there have been almost 1,000 executions across the country, including three at the Federal level. At the same time, over 100 people on death row were later found innocent and released from death row. Exonerated inmates are not only removed from death row, but many are usually released from prison altogether. Apparently, these people never should have been convicted in the first place. While death penalty proponents claim that the death penalty is fair, efficient, and a deterrent, the fact remains that our criminal justice system has failed and has resulted in at least 117 very grave mistakes.

Nine hundred and forty-four executions, and 117 exonerations in the modern death penalty era. That is an embarrassing statistic, one that should have us all questioning the use of capital punishment in this country. And we continue to see more cases in which our justice system has failed. Since I first introduced this bill in November of 1999, 36 death row inmates have been exonerated throughout the country, 12 since I introduced this bill in the last Congress in February 2003. Since I last introduced this bill, 115 people have been executed nationwide. How many innocents are among them? We may never know.

While executions continue and the death row population grows, the national debate on the death penalty intensifies and has become even more vigorous. The number of voices joining in to express doubt about the use of capital punishment in America is growing. As evidence of the flaws in our system, major newspapers and journals, the national awareness that has not escaped the attention of the American people. Layer after layer of confidence in the death penalty system has been gradually peeling away, and the voices of those questioning the fairness are getting louder and louder. Now they can be heard from college campuses and courtrooms and podiums across the Nation, to the Senate Judiciary Committee hearing room, to the Supreme Court. We must not ignore them.

That our modern society relies on killings as punishment is disturbing enough. Even more disturbing, however, is that our States' and Federal Government's use of the death penalty often rests on flawed premises and principles of due process, fairness, and justice. These principles are the foundation of our criminal justice system. It is clearer than ever before that we have put innocent people on death row. In addition, statistics show that those States that have the death penalty are more likely to put people to death for killing white victims than for killing black victims.

After the death penalty was reinstated in 1976, the most notable of the Federal Government first resumed death penalty prosecutions after enactment of a 1988 Federal law that provided for the death penalty for murder in the course of a drug-kingspin conspiracy. The Federal death penalty was then suspended significantly in 1994, when the omnibus crime bill allowed its use to apply to a total of some 60 Federal offenses. Since 1994, Federal prosecutions seeking the death penalty have now accelerated.

A sustained and Federal death penalty system from 1988 to early 2000 was released by the U.S. Department of Justice in September 2000. That report showed troubling racial and geographic disparities in the Federal Government's administration of the death penalty. In other words, who lives and who dies in the Federal system appears to relate to the color of the defendant's skin. In the region of the country where the defendant is prosecuted, Attorney General Janet Reno was so disturbed by the results of that report that she ordered a further, in-depth study of the results. Attorney General John Ashcroft pledged to continue that study, and we still await the results of that further study. The Federal Government must do all that it can to ensure that no person is ever subject to harsher penalties because of the color of the defendant's skin.

I am certain that not one of my colleagues here in the Senate, not a single one, would defend racial discrimination in this ultimate punishment. The most fundamental guarantee of our Constitution is equal justice under law, and equal protection of the laws. Yet, we have a system in place today that raises grave questions about whether that guarantee is being met.

While the Federal death penalty system is clearly plagued by flaws, there are 38 States across the Nation that also authorize the use of capital punishment. And like the Federal system, those systems are not free from error.

Five years ago, Governor George Ryan took the historic step of placing a moratorium on executions in Illinois and creating an independent, blue ribbon commission to review the State's death penalty system. The Commission conducted an extensive study of the death penalty in Illinois and released a report with 85 recommendations for reform of the death penalty system. The Commission concluded that the death penalty system is not fair, and that the risk of executing the innocent is alarmingly real. Governor Ryan later pardoned four death row inmates and conducting an extensive study of the death penalty in Illinois and released a report with 85 recommendations for reform of the death penalty system. The Commission concluded that the death penalty system is not fair, and that the risk of executing the innocent is alarmingly real. Governor Ryan later pardoned four death row inmates and commuting the sentences of all remaining Illinois death row inmates to life in prison before he left office in January 2003:

Illinois is not alone. Four years ago, then Governor Parris Glendening learned of suspected racial disparities in the administration of the death penalty in Maryland. Governor Glendening did not look the other way. He commissioned the University of Maryland to study the State's application of the death penalty in history. Then faced with the rapid approach of a scheduled execution, Governor Glendening acknowledged that it was unacceptable to allow executions to take place while the study he had ordered was not yet complete. So, in May 2002, he placed a moratorium on executions. Unfortunately, Governor Bob Ehrlich later lifted that moratorium and executions have resumed in Maryland.

A sustained study was released in January 2003, and the findings should startle us all. The study found that blacks accused of killing whites are
simply more likely to receive a death sentence than blacks who kill blacks, or than white killers. According to the report, black offenders who kill whites are four times as likely to be sentenced to death as blacks who kill blacks, and twice as likely to get a death sentence as whites who kill whites.

Maryland and Illinois are not exceptions to a rule, nor anomalies in an otherwise perfect system. In fact, since reinstatement of the modern death penalty, a large number of capital cases across the country have involved white victims, even though only 50 percent of murder victims are white. Nationwide, more than half of the death row inmates are African Americans or Hispanic Americans.

There is evidence of racial disparities, inadequate counsel, prosecutorial misconduct, and false scientific evidence in death penalty systems across the country. While the research done in Maryland and Illinois has yielded shocking results, there are 36 other States that authorize the use of the death penalty, most of them far more frequently. Twenty of the 38 States that authorize capital punishment have executed more inmates than Maryland and Illinois. In 14 of those States have carried out more executions than Illinois. So while we are closer to uncovering the unthinkable truth about the flaws in the Maryland and Illinois death penalty systems, there are 36 other systems, and so most of them are likely plagued with the same flaws. And yet, the killing continues.

At the beginning of 2005, I cannot help but believe that our progress has been tarnished by our Nation’s not only continuing, but increasing use of the death penalty. We are a Nation that prides itself on the fundamental principles of justice, liberty, equality and due process. We are a Nation that scrutinizes the human rights records of other countries historically, we are one of the first nations to speak out against torture and killings by foreign governments. We should hold our own system of justice to the highest standard.

Over the last few years, some prominent voices in our country have done just that. And they are not just voices of liberals, or of the faith community. They are the voices of Justice Sandra Day O’Connor, Reverend Pat Robertson, former FBI Director William Sessions, Republican Governor George Ryan, and Democratic Governor Parris Glendening. The voices of those questioning our application of the death penalty are growing in number, and they are growing louder.

And while we examine the flaws in our death penalty system, we cannot help but note that our use of the death penalty stands in stark contrast to the majority of nations, which have abolished the death penalty in law or practice. At least 117 countries that have abolished the death penalty in law or in practice. The European Union denies membership in the alliance to those nations that use the death penalty. In fact, it passed a resolution calling for the immediate and unconditional global abolition of the death penalty, and it specifically called on all States within the United States to abolish the death penalty. This is significant because it reflects the unanimous view of a group of nations with which the United States enjoys the closest of relationships and shares the deepest common values.

One of the most troubling in the international context is that the United States is now one of only five countries that imposes the death penalty for crimes committed by juveniles. So while a May 2002 Gallup poll found that 80 percent of Americans oppose the death penalty for those under the age of 18, we are one of only five nations on this earth that puts to death people who were under 18 years of age when they committed their crimes. The others are Iran, the Democratic peoples’ Republic of Congo, Nigeria, and Saudi Arabia. In the last decade, the United States has executed more juvenile offenders than all other nations combined.

These are countries that we often criticize for human rights abuses. We should remove any basis for charges that human rights violations are taking place on our own soil by halting the execution of people who were not even adults when they committed the crimes they were sentenced to die. No one can reasonably argue that executing child offenders is a normal or acceptable practice in the world community. And I do not think that we should be proud that the United States is the world leader in the execution of child offenders.

As we begin a new year and another Congress, our society is still far from fully just. The continued use of the death penalty shames us. The penalty for virtually every crime is at times more than the death penalty. It is wrong and it is immoral. The adage “two wrongs do not make a right,” applies here in the most fundamental way. Our Nation has long ago done away with other barbaric punishments like whipping and cutting off the ears of criminals. Just as our Nation did away with these punishments as contrary to our humanity and ideals, it is time to abolish the death penalty as we seek justice in this new century. And it is not just a matter of morality. The continued viability of our justice system as a truly just system that deserves the respect of our own people and the world requires that we do so. Our Nation’s striving to remain the leading defender of freedom, liberty and equality demands that we do so.

Abolishing the death penalty will not be an easy task. It will take patience, persistence, and courage. As we work to move forward in a rapidly changing world, let us leave this archaic practice behind.

I ask my colleagues to join me in taking the first step in abolishing the death penalty in our great Nation. I also call on each State that authorizes the use of the death penalty to cease this practice. Let us step away from the culture of violence and restore fairness and integrity to our criminal justice system.

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:

SEC. 2. REPEAL OF FEDERAL LAWS PROVIDING FOR THE DEATH PENALTY.

(a) HOMICIDE-RELATED OFFENSES.—


(2) DESTRUCTION OF AIRCRAFT, MOTOR VEHICLES, OR RELATED FACILITIES RESULTING IN DEATH.—Section 34 of title 18, United States Code, is amended by striking “to the death penalty or”.

(3) MURDER COMMITTED DURING A DRUG-RELATED DRIVE-BY SHOOTING.—Section 36(b)(2)(A) of title 18, United States Code, is amended by striking “or death”.

(4) MURDER COMMITTED AT AN AIRPORT SERVING INTERNATIONAL CIVIL AVIATION.—Section 37(a) of title 18, United States Code, is amended in the first sentence of paragraph (2), by striking “punished by death”.

(5) CIVIL RIGHTS OFFENSES RESULTING IN DEATH.—Chapter 13 of title 18, United States Code, is amended—

(A) in section 241, by striking “or may be sentenced to death”;

(B) in section 242, by striking “or may be sentenced to death”;

(C) in section 245(b), by striking “or may be sentenced to death”;

(D) in section 267, by striking “or may be sentenced to death”.

(6) MURDER OF A MEMBER OF CONGRESS, AN IMPORTANT EXECUTIVE OFFICIAL, OR A SUPREME COURT JUDGE RESULTING IN DEATH.—Section 3511 of title 18, United States Code, is amended—

(A) in subsection (b)(2), by striking “or death”;

(B) in subsection (d), by striking “or to the death penalty”;

(C) in subsection (f)(3), by striking “subject to the death penalty, or”;

(D) in subsection (i), by striking “or to the death penalty”.

(7) DEATH RESULTING FROM OFFENSES INVOLVING TRANSPORTATION OF EXPLOSIVES, DESTRUCTION OF GOVERNMENT PROPERTY, OR DESTRUCTION OF PROPERTY RELATED TO FOREIGN OR INTERSTATE COMMERCE.—Section 344 of title 18, United States Code, is amended—

(A) in subsection (d), by striking “or to the death penalty”;

(B) in subsection (f)(3), by striking “subject to the death penalty, or”;

(C) in subsection (i), by striking “or to the death penalty”.

(D) in subsection (n), by striking “(other than the penalty of death)”.

(8) DEATH RESULTING FROM USE OF A FIREARMS DURING COMMISSION OF A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.—Section 929(j)(1) of title 18, United States Code, is amended by striking “by death or”.

(9) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking “death or”.

(10) FIRST DEGREE MURDER.—Section 1111(b) of title 18, United States Code, is amended by striking “by death or”.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Death Penalty Abolition Act of 2005”.

SEC. 3. PROVISIONS RESPECTING STATE DEATH PENALTY LAWS.

(a) REPEAL OF STATE LAWS.—

(1) PENAL LAWS.—The penal laws of each State shall be amended to delete each reference to the death penalty.

(2) APPEALS.—The provisions of this Act shall apply to all appeals pending in the courts of any State, or in the United States, including the Supreme Court of the United States, in which the death penalty is a potential penalty at any time after this Act is in effect.

(b) DEATH PENALTY FOR JUVENILES.—

(1) ABOLITION.—Any death penalty for crimes committed by juveniles by any State is hereby abolished.

(2) USE OF CAPITAL PUNISHMENT.—No State shall impose the death penalty for crimes committed by juvenile offenders.

(c) CAPITAL PUNISHMENT FOR NON-JUVENILES.—

(1) ABOLITION.—Any death penalty for crimes committed by non-juveniles by any State is hereby abolished.

(2) USE OF CAPITAL PUNISHMENT.—No State shall impose the death penalty for crimes committed by non-juveniles.
(11) MURDER BY A FEDERAL PRISONER.—Section 1118 of title 18, United States Code, is amended—
(A) in subsection (a), by striking “by death or”, and
(B) in subsection (b), in the third undesignated paragraph—
(i) by inserting “or” before “an indeterminate sentence of death”.
(12) MURDER OF A STATE OR LOCAL LAW ENFORCEMENT OFFICER OR OTHER PERSON AIDING IN A FEDERAL INVESTIGATION; MURDER OF A STATE CORRECTIONAL OFFICER.—Section 1121 of title 18, United States Code, is amended—
(A) in subsection (a), by striking “by sentence of death”; and
(B) in subsection (b)(1), by striking “or death”.
(13) MURDER DURING A KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by striking “death or”.
(14) MURDER DURING A HOSTAGE-TAKING.—Section 1203(a) of title 18, United States Code, is amended by striking “death or”.  
(15) MURDER WITH THE INTENT OF PREVENTING TESTIMONY BY A WITNESS, VICTIM, OR INFORMANT.—Section 1512(a)(2) of title 18, United States Code, is amended by striking “the death penalty or”.
(16) MAINTENANCE OF JURISDICTIVE ARTICLES WITH INTENT TO KILL OR RESULTING IN DEATH.—Section 1715 of title 18, United States Code, is amended by striking “to the death penalty or”.
(17) ASSASSINATION OR KIDNAPPING RESULTING IN THE DEATH OF THE PRESIDENT OR VICE PRESIDENT.—Section 1716(i) of title 18, United States Code, is amended by striking “death or”.
(18) MURDER FOR HIRE.—Section 1958(a) of title 18, United States Code, is amended by striking “death or”.
(19) MURDER INVOLVED IN A RACKETEERING OFFENSE.—Section 1959(a)(1) of title 18, United States Code, is amended by striking “death or”.
(20) WILLFUL WRECKING OF A TRAIN RESULTING IN DEATH.—Section 1992(b) of title 18, United States Code, is amended by striking “to the death penalty or”.
(21) BANK ROBBERY-RELATED MURDER OR KIDNAPPING.—Section 2113(e) of title 18, United States Code, is amended by striking “death or”.
(22) MURDER RELATED TO A CARJACKING.—Section 2119(b)(3) of title 18, United States Code, is amended by striking “sentence of death”.
(23) MURDER RELATED TO AGGRAVATED CHILD SEXUAL ABUSE.—Section 2241(c) of title 18, United States Code, is amended by striking “unless the death penalty is imposed.”.
(24) MURDER RELATED TO SEXUAL ABUSE.—Section 2245 of title 18, United States Code, is amended by striking “punished by death or”.
(25) MURDER RELATED TO SEXUAL EXPLOITATION OF CHILDREN.—Section 2251(d) of title 18, United States Code, is amended by striking “punished by death or”.
(26) MURDER COMMITTED DURING AN OFFENSE AGAINST MARITIME NAVIGATION.—Section 2290(a)(1) of title 18, United States Code, is amended by striking “punished by death or”.
(27) MURDER COMMITTED DURING AN OFFENSE AGAINST A MARITIME FIXED PLATFORM.—Section 2293 of title 18, United States Code, is amended by striking “punished by death or”.
(28) TERRORIST MURDER OF A UNITED STATES NATIONAL IN ANOTHER COUNTRY AGAINST A MARITIME FIXED PLATFORM.—Section 2281(a)(1) of title 18, United States Code, is amended by striking “death or”.
(29) MURDER BY THE USE OF A WEAPON OF MASS DESTRUCTION.—Section 2282 of title 18, United States Code, is amended—
(A) in subsection (a), by striking “punished by death or”; and
(B) in subsection (b), by striking “by death or”.
(30) MURDER BY ACT OF TERRORISM TRANSNATIONAL BOUNDARIES.—Section 2282(b)(1)(A) of title 18, United States Code, is amended by striking “by death or”.
(31) MURDER INVOLVING TORTURE.—Section 2301(a) of title 18, United States Code, is amended by striking “punished by death or”.
(32) MURDER RELATED TO A CONTINUING CRIMINAL ENTERPRISE OR RELATED MURDER OF A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT OFFICER.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—
(A) in each of subparagraphs (A) and (B) of subsection (e)(1), by striking “; or may be sentenced to death”;
(B) by striking subsections (g) and (h) and inserting the following:
“(g) Reserved.”;
(C) in subsection (j), by striking “and to appropriate in that case of imposing a sentence of death”;
(D) in subsection (k), by striking “, other than death,” and all that follows before the period and inserting “authorized by law”;
(E) by striking subsections (1) and (m) and inserting the following:
“(l) Reserved.”;
“(m) Reserved.”.
(33) DEATH RESULTING FROM AIRCRAFT HI-JACKING.—Section 46502 of title 49, United States Code, is amended—
(A) in subsection (a)(2), by striking “put to death or”;
(B) in subsection (b)(1)(B), by striking “put to death or”.
(34) NON-HOMICIDE RELATED OFFENSES.—
(1) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking “punished by death or all that follows before the period and inserting “imprisoned for any term of years or for life”.
(2) TREASON.—Section 2381 of title 18, United States Code, is amended by striking “shall suffer death or”.
(3) REPEAL OF CRIMINAL PROCEDURES RELATING TO IMPOSITION OF DEATH SENTENCE.—
(1) IN GENERAL.—Section 3501 of title 18, United States Code, is repealed.
(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part II of title 18, United States Code, is amended by striking the item relating to chapter 229.

SEC. 3. PROHIBITION ON IMPOSITION OF DEATH SENTENCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, no person may be sentenced to death or put to death on or after the date of enactment of this Act for any violation of Federal law which is a felony violation of Federal law shall serve a sentence of life imprisonment without the possibility of parole.

By Mr. FEINGOLD:
S. 123. A bill to amend part D of title XVIII of the Social Security Act to provide for negotiation of fair prices for Medicare prescription drugs; to the Committee of the whole Senate.—Mr. FEINGOLD. Mr. President, today I am introducing a bill that will fix one of the fundamental flaws of the Medicare prescription drug benefit signed into law last Congress. The “Efficiency in Government Health Care Spending Act” will remove language included in the Medicare Modernization Act that prohibits the Medicare program from negotiating prescription drug prices with manufacturers. I believe that these provisions are flawed because they do too little to bring down the prices of prescription drugs, and that there are not enough measures to keep the skyrocketing cost of the program in check. In fact, it actually takes away the best tool that the Medicare program could use in bringing down prescription drug prices by denying the government the ability to negotiate price discounts on behalf of Medicare beneficiaries.

My bill will allow the Federal Government to take advantage of the purchasing power of the Medicare program, saving taxpayers’ dollars while reducing the costs of prescription drugs for Medicare beneficiaries. We need to act now to fix the flaws included in the Medicare prescription drug benefit, before the benefit begins next year.

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

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

S. 123
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 “Efficiency in Government Health Care Spending Act”.

SEC. 2. FINDINGS.

Congress makes the following findings:
(1) Prohibiting the Federal Government from negotiating prescription drug prices with manufacturers fails to take advantage of the purchasing power of the Medicare program.
(2) Negotiating prescription drug prices can reduce the costs of prescription drugs for both the Medicare program and taxpayers.
(3) A 2002 study by the inspector general of the Department of Health and Human Services found that—
(A) both the Medicare program and the beneficiaries of the Medicare program continually pay too much for medical equipment and medical supplies; and
(B) if the Medicare program paid the same prices for 16 health care supplies as the Department of Veterans Affairs, which directly negotiates prices with manufacturers, pays for those supplies, the Federal government could save $568,000,000.

SEC. 3. SENSE OF THE SENATE REGARDING THE USE OF AUTHORITY TO NEGOTIATE PRICES FOR MEDICARE PRESCRIPTION DRUGS.

It is the sense of the Senate that the Secretary of Health and Human Services should exercise the authority under section 190D–11(i)(1) of the Social Security Act (42 U.S.C. 1395w–11(i)(1)), as amended by section 4, so as to assure an affordable Medicare drug benefit for Medicare beneficiaries and taxpayers.

SEC. 4. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.

(a) NEGOTIATION.—Section 190D–11 of the Social Security Act (42 U.S.C. 1395w–11) is amended by adding the following:
Mr. FEINGOLD: S. 124. A bill to amend title XVIII of the Social Security Act to repeal the MA Regional Plan Stabilization Fund; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, today I am introducing a bill that will remove the multi-billion dollar “stabilization fund” from the new Medicare prescription drug benefit. This stabilization fund is in essence a slush fund that gives billions of dollars to private insurance companies. This is not an efficient use of taxpayers’ dollars. In fact, it’s not clear why it’s even necessary, as private managed care plans are successful in bringing costs down, as backers of the new Medicare bill expect, and if seniors supposedly want to choose private plans, as backers of the new Medicare bill believe, then why should American taxpayers pay private companies more money to get more people to enroll in them?

We should not be subsidizing private health insurance companies in the name of Medicare reform. It is fiscally irresponsible, in a time of record deficits, to use taxpayers’ dollars as a giveaway to private insurance companies. By removing this multi-billion slush fund, my bill will save the American taxpayers $10 billion. Many analysts, including the Administration’s analysts, predict that the new Medicare prescription drug benefit will far surpass the $300 billion budgeted for it. We need to look carefully at how we spend Medicare dollars, so that we can ensure that the program remains solvent for future generations.

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

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

S. 124

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

SECTION 1. REPEAL OF MA REGIONAL PLAN STABILIZATION FUND.

(a) PURPOSE OF SECTION.—The purpose of this section is to reduce the Federal budget deficit and to more efficiently use taxpayer dollars in health care spending.

(b) REPEAL OF MA REGIONAL PLAN STABILIZATION FUND.—Section 1858 of the Social Security Act (42 U.S.C. 1395w-7a) is amended—

(1) by striking subsection (e);

(2) by redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively; and

(3) in subsection (e), as so redesignated, by striking “subject to subsection (e)”.

(c) CONFORMING AMENDMENT.—Section 1851(i)(2) of the Social Security Act (42 U.S.C. 1395w-21(i)(2)), as amended by section 217 of the Medicare, Drug, Improvement, and Modernization Act of 2003, is amended by striking “1858(h)” and inserting “1858g(h).”

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173).

By Mrs. BOXER (for herself, Mrs. Feinstein, and Mr. Durbin):

S. 125. A bill to designate the United States courthouse located at 501 I Street in Sacramento, California, as the “Robert T. Matsui United States Courthouse”; to the Committee on Environment and Public Works.

Mr. INOUYE. Mr. President, today I introduce the Clinical Social Workers’ Recognition Act to correct a continuing problem in the Federal Employee Compensation Act. This bill will also provide clinical social workers the recognition they deserve as independent providers of quality mental health care services.

Clinical social workers are authorized to independently diagnose and treat mental illnesses through public and private health insurance plans across the nation. However, Title V of the United States Code, does not permit the use of mental health evaluations conducted by clinical social workers for use as evidence in determining workers’ compensation claims brought by federal employees. The bill I am introducing corrects this problem.

As the story of Congressman Matsui’s life shows, the irony is that federal employees may select a clinical social worker through their health plans to provide mental health services, but may not go to this same professional for workers’ compensation evaluations. The failure to recognize the validity of evaluations provided by clinical social workers unnecessarily limits federal employees’ selection of a provider to conduct the workers’ compensation mental health evaluations. Lack of this recognition may well impose an undue burden on federal employees where clinical social workers are the only available providers of mental health care.

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

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

S. 127

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 “Clinical Social Workers’ Recognition Act of 2005.”

SEC. 2. EXAMINATIONS BY CLINICAL SOCIAL WORKERS FOR FEDERAL WORKER COMPENSATION CLAIMS.

Section 8101 of title 5, United States Code, is amended—

(1) in paragraph (2), by striking “osteopathic practitioners” and inserting “osteopathic practitioners, and clinical social workers”; and

(2) in paragraph (3), by striking “osteopathic practitioners” and inserting “osteopathic practitioners, clinical social workers.”
January 24, 2005

CONGRESSIONAL RECORD — SENATE

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 128. A bill to designate certain public land in Humboldt, Del Norte, Mendocino, Lake, and Napa Counties in the State of California as wilderness, to designate segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes: to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I am introducing a bill today that will protect hundreds of thousands of acres of wilderness in Northern California. The Northern California Coastal Wild Heritage Act would designate over 300,000 acres in 14 areas as wilderness and would protect 21 miles of the Black Butte Creek as wild and scenic. The Senate passed this legislation during the 108th Congress, and I am hopeful this year that the bill will become law.

California’s natural treasures have always been one of the things that make California unique, drawing millions of people to our state to enjoy its beauty. But that beauty must not be taken for granted. It is important that we move now to designate these special places in California as wilderness to protect them for the enjoyment of future generations.

That is why I introduced the statewide California Wild Heritage Act during the 107th Congress and the 108th Congress, and I will soon be reintroducing the California Wild Heritage Act would protect more than 2.5 million acres of public land throughout the state of California, as well as the free-flowing portions of 23 rivers. Every acre of wild land is a treasure, but the areas protected in this bill are some of California’s most precious.

I am pleased to join Representative Mike Thompson of California in introducing this legislation, which protect those portions of my statewide bill that were located in California’s First Congressional District. The areas protected under this legislation are some of the most magnificent wild places in our state. For example, in southwestern Humboldt and northwestern Mendocino counties, over 12,000 acres of the King Range will be protected as wilderness. This is the wildest portion of the California coast, boasting the longest stretch of undeveloped coastline in the United States outside of Alaska.

This bill will protect watersheds that provide clean water to our cities and farms. This bill would also protect the precious plant and animal species that make their homes in these areas. Endangered and threatened species whose habitats will be protected by this bill include the bald eagle, California brown pelican, steelhead trout, coho salmon, bald eagle, peregrine falcon, northern spotted owl, and Roosevelt elk.

During the last 20 years, 675,000 acres of unprotected wilderness lost their wilderness character due to activities such as logging and mining. As our population increases, and California becomes home to almost 50 million people by the middle of the century, development pressures threaten our remaining wild places. We must protect our precious wild rivers before they are lost forever.

Mr. President, those of us who live in the United States have a very special responsibility to protect our natural heritage. With this legislation, we are one step closer to being able to give this legacy for our children’s children, and their children.

By Mr. TALENT:

S. 129. A bill to amend title 23, United States Code, to provide for HOV facilities; to the Committee on Environment and Public Works.

Mr. TALENT. Mr. President, I am pleased to be introducing this bill, which will allow more owners of hybrid electric vehicles, or HEVs, to have access to HOV lanes on Federal highways. For all of us who have a desire to lessen our dependence on foreign oil and encourage the use of renewable energy, this bill is a step forward towards achieving those goals.

The language that is currently in the highway bills passed by the House and the Senate allows hybrid vehicles that achieve a 45 mile-per-gallon fuel economy high enough to use HOV lanes. Any hybrid that achieves that kind of fuel economy certainly deserves to get that status, because it is a very impressive fuel economy rating and represents a substantial improvement over non-hybrid vehicles. What the 45 mile-per-gallon standard fails to take into account, however, is that many larger hybrid vehicles achieve a much larger fuel economy improvement over their internal combustion engine counterparts, and thus save more energy, than smaller vehicles managed to meet the standard but are a less drastic improvement over their non-hybrid counterparts.

To illustrate this, take the 2005 model Honda Civic HEV, which gets just over 45 miles-per-gallon. This represents less than a 40 percent improvement over the comparable internal combustion model. The 2005 Ford Escape HEV, on the other hand, is a truck, so it gets fewer miles per gallon than a sedan and SUVs and 40. However, this is a 75 percent improvement over its internal combustion engine counterpart, and in addition, the Escape HEV emits 3-4 tons fewer greenhouse gases every year than the non-hybrid.

There is no reason to discriminate against these larger, American-made hybrids like the Ford Escape. They are truly engineering marvels and are so clearly beneficial for the environment. The bill that I have sponsored will give State authoritiescretion to open up their HOV lanes to hybrid vehicles that achieve a substantial increase in fuel economy relative to comparable gaso-
“(II) a rechargeable energy storage system; and

“(III) certified by the manufacturer to have achieved either a 10 percent or more increase in fuel economy relative to a comparable vehicle that is an internal combustion gasoline fueled vehicle (other than a vehicle that has propulsion energy from such on-board sources), or a 10 percent or more vehicle increase in lifetime fuel savings relative to a comparable vehicle, determined in accordance with guidelines prescribed by the Administrator of the Environmental Protection Agency not later than 180 days after the date of enactment of this section, specific procedures and methods for calculating other increase and making the comparison, except that the State agency referred to in this section may, subject to the guidance and combination of the percentage under this subclause in furtherance of its responsibilities with respect to a HOV facility specified in subsection (c); or

“(ii) is a dedicated alternative fuel vehicle.

“(4) PUBLIC TRANSPORTATION VEHICLE.—The term ‘public transportation vehicle’ means a vehicle that provides public transportation (as defined in section 5302(a) of title 49).

“(5) STATE AGENCY.—The term ‘State agency’, as used with respect to a HOV facility, means an agency of a State or local government (including a State transportation department) having jurisdiction over the operation of the facility.

“(6) ADVANCED LEAN BURN TECHNOLOGY VEHICLE.—The term ‘advanced lean burn technology vehicle’ means a vehicle with an internal combustion engine that—

“(A) is designed to operate primarily using more air than is necessary for complete combustion of fuel;

“(B) incorporates direct injection;

“(C) has at least 125 percent of city fuel economy of a comparable vehicle; and

“(D) has received a certificate that the vehicle meets or exceeds—

“(i) in the case of a vehicle having a gross vehicle weight rating of 6000 pounds or less, the Bin 5 II emission standard established by regulations under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)); and

“(ii) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 3 emission standard established by regulations under section 202(b) of the Clean Air Act (42 U.S.C. 7521(b)).

“(b) In General.—

“(1) AUTHORITY OF STATE AGENCIES.—A State agency that has jurisdiction over the operation of a HOV facility shall establish the occupancy requirements of vehicles operating on the facility.

“(2) OCCUPANCY REQUIREMENT.—Except as otherwise provided by this section, not fewer than 2 occupants per vehicle may be required for use of the HOV facility.

“(c) EXCEPTIONS TO OCCUPANCY REQUIREMENT.—Notwithstanding the occupancy requirements specified in subsection (b), the following exceptions shall apply with respect to a State agency operating a HOV facility:—

“(1) MOTORCycles AND BICYCLES.—

“(A) IN GENERAL.—Subject to subparagraph (B), the State agency shall allow motorcycles and bicycles to use the HOV facility.

“(B) SAFETY EXCEPTION.—

“(i) In General.—A State agency may restrict use of the HOV facility by motorcycles or bicycles if the agency certifies to the Secretary that such use would create a safety hazard and the Secretary accepts the certification.

“(ii) Notice.—The Secretary may accept a certification under clause (i) only after the Secretary has published notice of the certification in the Federal Register and provides an opportunity for public comment.

“(2) PUBLIC TRANSPORTATION VEHICLE.—

“The State agency may allow public transportation vehicles to use the HOV facility if the agency—

“(A) establishes requirements for clearly identifying the vehicles; and

“(B) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.

“(3) HIGH OCCUPANCY TOLL VEHICLES.—

“The State agency may allow vehicles that do not otherwise exempt under this subsection to use the HOV facility if the agency—

“(A) the operators of the vehicles pay a toll charged by the agency for use of the facility; and

“(B) the agency—

“(i) establishes a program that addresses how motorists can enroll and participate in the toll program; and

“(ii) develops, manages, and maintains a system that will automatically collect the toll.

“(3) and (4) of subsection (c), subject to the requirements of section 129.

“(4) LOW-EMISSION AND ENERGY-EFFICIENT VEHICLES.—

“(A) INHERENTLY LOW-EMISSION VEHICLES.—

“Before September 30, 2009, the State agency may allow vehicles that are certified and labeled as inherently low-emission vehicles under section 88311-95 of title 49, Code of Federal Regulations, to use the HOV facility if the agency establishes procedures for enforcing restrictions on the use of the facility by the vehicles.

“(B) OTHER LOW-EMISSION AND ENERGY-EFFICIENT VEHICLES.—Before September 30, 2009, the State agency may allow vehicles that are certified and labeled low-emission and energy-efficient vehicles under subsection (f) to use the HOV facility if the agency—

“(i) establishes a program that addresses how the vehicles are selected and certified; and

“(ii) establishes requirements for labeling the vehicles and procedures for enforcing those requirements;

“(III) permit low-income individuals to pay reduced tolls.

“(2) PUBLIC TRANSPORTATION VEHICLES.—

“The agency may allow vehicles that provide public transportation (as defined in section 5302(a) of title 49) to use the HOV facility if the agency—

“(i) establishes a program that addresses how motorists can enroll and participate in the toll program; and

“(ii) establishes policies and procedures to—

“(I) manage the demand to use the facility by varying the toll amount that is charged; and

“(II) enforce violations of use of the facility;

“(III) permit low-income individuals to pay reduced tolls.

“(3) HIGH OCCUPANCY TOLL VEHICLES.—

“The State agency may allow vehicles that do not otherwise exempt under this subsection to use the HOV facility if the agency—

“(A) establishes requirements for clearly identifying the vehicles; and

“(B) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.

“(4) LOW-EMISSION AND ENERGY-EFFICIENT VEHICLES.—

“(A) INHERENTLY LOW-EMISSION VEHICLES.—

“Before September 30, 2009, the State agency may allow vehicles that are certified and labeled as inherently low-emission vehicles under section 88311-95 of title 49, Code of Federal Regulations, to use the HOV facility if the agency establishes procedures for enforcing restrictions on the use of the facility by the vehicles.

“(B) OTHER LOW-EMISSION AND ENERGY-EFFICIENT VEHICLES.—Before September 30, 2009, the State agency may allow vehicles that are certified and labeled low-emission and energy-efficient vehicles under subsection (f) to use the HOV facility.

“(1) HOV FACILITIES ON THE INTERSTATE HIGHWAY.—Subject to subparagraph (C), the Governor of any State may use tolls under paragraphs (3) and (4) of subsection (c) on a toll facility if the Governor certifies to the Secretary that the toll facility is seriously degraded the operation of the facility.

“(2) MINIMUM AVERAGE OPERATING SPEED; DEGRADED FACILITY.—

“(A) MINIMUM AVERAGE OPERATING SPEED DEFINED.—In this paragraph, the term ‘minimum average operating speed’ means—

“(i) 45 miles per hour, in the case of a HOV facility with a speed limit of 60 miles per hour or greater; and

“(ii) not more than 10 miles per hour below the speed limit, in the case of a HOV facility with a speed limit of less than 60 miles per hour.

“(B) STANDARD FOR DETERMINING DEGRADA- TION.—For purposes of paragraph (1), the operation of a HOV facility is considered to be degraded if vehicles operating on the facility fail to maintain a minimum average operating speed of 90 percent of the time over a consecutive 10-day period during an evening weekday peak hour period.

“(C) CERTIFICATION AND LABELING OF LOW- EMISSION AND ENERGY-EFFICIENT VEHICLES AND ADVANCED LEAN BURN TECHNOLOGY VEHICLES.—Not later than 180 days after the date of enactment of this section, the Administrator of the Environmental Protection Agency shall promulgate a final rule establishing requirements for—

“(1) certification of vehicles—

“(A) as low-emission and energy-efficient vehicles; and

“(B) as advanced lean burn technology vehicles; and

“(2) labeling of the vehicles certified under paragraph (1).”.

“(2) TechnicaL AMENDMENT.—Section 102(c) of title 23, United States Code, is amended by striking ‘‘10 years” and inserting ‘‘10 years or any longer period that the State requests and the Secretary determines is to be reasonable’’.

“(c) ConformING AMENDMENTS.—

“(1) PROGRAM EFFICIENCIES.—Section 102 of title 23, United States Code, is amended by substituting ‘‘Tolling System’’ for ‘‘tolls’’ each place it appears in subsections (b) and (c) as subsections (a) and (b), respectively.
S. 130

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

SECTION 1. DISTRICT JUDGESHIP FOR THE DISTRICT OF NEBRASKA.

(a) In General.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Nebraska.

(b) Technical and Conforming Amendment.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Nebraska and inserting the following:

“Nebraska .......... 4”.

By Mr. INHOFE (for himself and Mr. VOINOVICH):

S. 131, a bill to amend the Clean Air Act to reduce air pollution through expansion of cap and trade programs, to provide an alternative regulatory classification for units subject to the cap and trade program; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, 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. 131

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

SECTION 1. SHORT TITLE. TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Clear Skies Act of 2005”.

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Emission reduction programs.

Sec. 3. Emission reduction requirements.

Sec. 4. Definitions.

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SEC. 403. ALLOWANCE SYSTEM.

SEC. 404. PERMITS AND COMPLIANCE PLANS.

SEC. 405. MONITORING, REPORTING, AND VERIFICATION REQUIREMENTS.

SEC. 406. EXCESS EMISSIONS PENALTY; GENERAL COMPLIANCE WITH OTHER PROVISIONS; ENFORCEMENT.

SEC. 407. ELECTION FOR ADDITIONAL UNITS.

SEC. 408. CLEAN COAL TECHNOLOGY REGULATORY INCENTIVES.

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SEC. 416. ELECTION FOR ADDITIONAL SOURCES.

SEC. 417. AUCTIONS, RESERVES.

SEC. 418. INDUSTRIAL SULFUR DIOXIDE EMISSIONS.

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Sec. 422. APPLICABILITY.

Sec. 423. LIMITATIONS ON TOTAL EMISSIONS.

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Section 424, 434, 454, or 474 shall submit to the Administrator such information. The Administrator is not required to allocate allowances under such sections to a unit for which the owner or operator fails to submit information in accordance with the regulations promulgated under this subparagraph.

(6) Coal.—The term ‘coal’ means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.

(7) Coal-derived fuel.—The term ‘coal-derived fuel’ means any fuel (whether in a solid, liquid, or gaseous form) produced by the mechanical, thermal, or chemical processing of coal.

(8) Coal-fired.—The term ‘coal-fired’ with regard to a unit means, except under subpart 1 of part B, subpart 1 of part C, and sections 424 and 434, combusting coal or any coal-derived fuel alone or in combination with any amount of any other fuel in any year.

(9) Cogeneration unit.—The term ‘cogeneration unit’ means, except under subpart 1 of part B and subpart 1 of part C, a unit that produces energy in accordance with the requirements of that subpart.

(10) Combustion turbine.—(A) In general.—The term ‘combustion turbine’ means any combustion turbine that is not a ‘coalfired’ unit.

(B) Inclusion.—The term ‘combustion turbine’ includes a simple cycle combustion turbine, a combined cycle combustion turbine and any duct burner or heat recovery device used to extract heat from the combustion turbine exhaust, and a regenerative combustion turbine.

(C) Exclusions.—The term ‘combustion turbine’ does not include a combined turbine in an integrated gasification combined cycle plant.

(11) Commence commercial operation.—The term ‘commence commercial operation’ with regard to a unit means the start up of the unit’s combustion chamber and the commencement of the generation of electricity for sale.

(12) Compliance plan.—The term ‘compliance plan’ means either—

(A) a statement that the facility will comply with all applicable requirements under this title; or

(B) if under subpart 1 of part B or subpart 1 of part C, where applicable, a schedule and description of the method or methods for compliance and certification by the owner or operator that the facility is in compliance with the requirements of that subpart.

(13) Continuous emission monitoring system.—The term ‘continuous emission monitoring system’ (CEMS) means the equipment and analytical methods as required by section 405, used to sample, analyze, measure, and provide on a continuous basis a permanent record of emissions and any duct burner or heat recovery devices used to extract heat from the combustion turbine exhaust, and a regenerative combustion turbine.

(14) Designated representative.—The term ‘designated representative’ means a responsible person or official authorized by the owner or operator of a unit and the facility that includes the unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances and any permits, permits application, and compliance plans.

(15) Duct burner.—The term ‘duct burner’ means any device that uses exhaust from a combustion turbine to burn fuel for heat recovery.

(16) Facility.—The term ‘facility’ means all buildings, structures, or installations located on 1 or more contiguous or adjacent properties under common control and the same corporate identification number.

(17) Fossil fuel.—The term ‘fossil fuel’ means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such materials.

(18) Fossil fuel-fired.—The term ‘fossil fuel-fired’ with regard to a unit means the combustion of fuel that is composed of at least 10 percent coal.

(19) Fuel oil.—The term ‘fuel oil’ means a petroleum-based fuel, including diesel fuel or petroleum derivatives.

(20) Gas-fired.—The term ‘gas-fired’, with regard to a unit, means, except under subpart 1 of part B and subpart 1 of part C, combusting only natural gas or fuel oil, with natural gas comprising at least 90 percent, and fuel oil comprising no more than 10 percent, of the unit’s total heat input in any year.

(21) Gasify.—The term ‘gasify’ means to convert carbon-containing material into a gas consisting primarily of carbon monoxide and hydrogen.

(22) Generator.—The term ‘generator’ means a device that produces electricity and, under subpart 1 of part B and subpart 1 of part C, that is reported as a generating unit pursuant to Department of Energy Form 860.

(23) Heat input.—(A) In general.—The term ‘heat input’, with regard to a specific period of time, means the product of—

1) the gross calorific value of the fuel (in million British thermal units (mmBtu)); and

2) the fuel feed rate into a unit (in lb of fuel/time).

(B) Exclusions.—The term ‘heat input’ does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust.

(24) Integrated gasification combined cycle plant.—The term ‘integrated gasification combined cycle plant’ means any combination of equipment used to gasify fossil fuels (with or without other material) and then burn the gas in a combined cycle combustion turbine.

(25) Oil-fired.—The term ‘oil-fired’, with regard to a unit, means, except under sections 424 and 434, burning fuel oil for more than 10 percent the unit’s total heat input, and combusting no coal or coal-derived fuel, in any year.

(26) Operator.—The term ‘owner or operator’ with regard to a unit or facility means, except for subpart 1 of part B and subpart 1 of part C, any person who owns, leases, controls, or supervises the unit or the facility.

(27) Permitting authority.—The term ‘permitting authority’ means the Administrator or the permitted sulfur dioxide control agency, with an approved permitting program under title V of the Act.

(28) Potential electrical output.—The term ‘potential electrical output’ with regard to a generator means the nameplate capacity of the generator multiplied by 9,760 hours.

(29) Simple cycle combustion turbine.—The term ‘simple cycle combustion turbine’ means a combustion turbine that does not extract heat from the combustion turbine exhaust gas.

(30) Stationary source.—The term ‘stationary source’ means any building, structure, facility, or installation located on one or more contiguous or adjacent properties under common control or ownership of the same person or persons which emits or may emit any air pollutant subject to regulations under the Clean Air Act of 2005.

(31) State.—The term ‘State’ means—

(A) 1 of the 48 contiguous States, Alaska, Hawaii, or the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands; or

(B) under subpart 1 of part B and subpart 1 of part C, 1 of the 48 contiguous States or the District of Columbia.

(32) Unit.—The term ‘unit’ means—

(A) a fossil fuel-fired boiler, combustion turbine, or integrated gasification combined cycle plant;

(B) under subpart 1 of part B and subpart 1 of part C, a fossil fuel-fired combustion device; and

(C) a stationary source that—

1) emits nitrogen oxides, sulfur dioxide, mercury, or any combination of those substances; and

2) is elected under section 407.

(33) Utility unit.—The term ‘utility unit’ shall have the meaning set forth in section 411.

(34) Year.—The term ‘year’ means a calendar year.

SEC. 403. ALLOWANCE SYSTEM.

(a) Allowances.—

(1) In general.—For the emission limitation programs under this title, the Administrator shall allocate allowances for an affected unit, to be held or distributed by the designated representative of the owner or operator in accordance with this title as follows:

(A) sulfur dioxide allowances in an amount equal to the annual tonnage emissions calculation, as calculated under section 413, 414, 415, or 416, except as otherwise specifically provided elsewhere in subpart 1 of part B, or in an amount calculated under section 414 or 416;

(B) nitrogen oxides allowances in an amount calculated under section 454; and

(C) mercury allowances in an amount calculated under section 474.

(2) No judicial review.—Notwithstanding any other provision of law to the contrary, the calculation of the allocation for any unit that has contributed to, or is claimed by any value used in such calculation, under sections 424, 434, 454, and 474 shall not be subject to judicial review.

(3) Allocation without cost.—Allowances shall be allocated by the Administrator without cost to the recipient, in accordance with this title.

(b) Transfer system.—Allowances allocated or sold by the Administrator under this title may be transferred among designated representatives of the owners or operators of affected facilities under this title and any other person, as provided by the allowance system regulations promulgated by the Administrator. With regard to nitrogen oxides allowances and mercury allowances, the Administrator shall implement this subsection by promulgating regulations not later than twenty-four months after the date of enactment of the Clean Skies Act of 2005. The regulations under this subsection shall establish the allowance system prescribed under this section, including, but not limited to, regulations for the allocation, transfer, and use of allowances under this title. Such regulations shall prohibit the use of any allowance prior to the calendar year in which the allocation was generated and shall provide, consistent with the purposes of this title, for the identification of...
Section of the Clear Skies Act of 2005, the Administrator shall promulgate regulations providing for direct sales of sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances to an owner or operator of a facility. The regulations shall provide that—

(A) such allowances may be used only to meet the requirements of section 422, 432, 452, and 472, as the case may be, for such facility and for the year in which the purchase is made or the prior year;

(B) each such sulfur dioxide allowance shall be sold for $2,000, each such nitrogen oxides allowance shall be sold for $4,000, and each such mercury allowance shall be sold for $8,000, with such prices adjusted for inflation based on the Consumer Price Index on the date of enactment of the Clear Skies Act of 2005 and annually thereafter.

(C) the proceeds from any sales of allowances under subparagraph (B) shall be, in accordance with paragraph (1), deposited in the Compliance Assistance Account;

(D) except as subject to (E), the allowances directly purchased for use after the specified year and continuing for each subsequent year as necessary; and

(E) if the designated representative does not use any other financing transaction in connection with such allowances, the Administrator shall deduct the allowance without refund or other form of recompense.

(4) USE OF ALLOWANCES.—Allowances may not be used prior to the calendar year for which they were sold or for any other calendar year, and such facility shall be considered a covered facility for the purpose of the Act. The Administrator shall promulgate regulations with notice and opportunity for comment to establish criteria for affected units to qualify for this subsection.

(5) NATURE OF ALLOWANCES.—A sulfur dioxide allowance, nitrogen oxides allowance, or mercury allowance allocated or sold by the Administrator shall be construed as modifying the provisions of title V, as modified by this title. Any such permit issued by the Administrator, or by a State with an approved permit program, shall prohibit—

(i) annual emissions of sulfur dioxide, nitrogen oxides, and mercury in excess of the number of allowances required to be held in accordance with sections 412(c), 422, 432, 452, and 472;

(ii) exceeding applicable emissions rates and other limitations required to be held in accordance with sections 412(c), 422, 432, 452, and 472;

(iii) the use of any allowance prior to the year for which it was allocated; and

(iv) contravention of any other provision of sections 412(c), 422, 432, 452, and 472.

No permit shall be issued that is inconsistent with the requirements of this title, and title V as applicable.

(b) COMPETITIVE BIDDING PLAN.—

(1) IN GENERAL.—Each initial permit application shall be accompanied by a compliance plan for the facility to comply with its obligations under this title. Such plan shall consist of one or more of the provisions of title V, as modified by this title. Any such permit issued by the Administrator, or by a State with an approved permit program, shall prohibit—

(i) annual emissions of sulfur dioxide, nitrogen oxides, and mercury in excess of the number of allowances required to be held in accordance with sections 412(c), 422, 432, 452, and 472;

(ii) exceeding applicable emissions rates and other limitations required to be held in accordance with sections 412(c), 422, 432, 452, and 472;

(iii) the use of any allowance prior to the year for which it was allocated; and

(iv) contravention of any other provision of sections 412(c), 422, 432, 452, and 472.

No permit shall be issued that is inconsistent with the requirements of this title, and title V as applicable.

(c) A SSET TRANSFERS.—The provisions of this title shall be implemented, subject to section 405, by permits issued to units and facilities subject to this title and enforced in accordance with the provisions of title V, as modified by this title. Any such permit issued by the Administrator, or by a State with an approved permit program, shall prohibit—

(i) annual emissions of sulfur dioxide, nitrogen oxides, and mercury in excess of the number of allowances required to be held in accordance with sections 412(c), 422, 432, 452, and 472;

(ii) exceeding applicable emissions rates and other limitations required to be held in accordance with sections 412(c), 422, 432, 452, and 472;

(iii) the use of any allowance prior to the year for which it was allocated; and

(iv) contravention of any other provision of sections 412(c), 422, 432, 452, and 472.

No permit shall be issued that is inconsistent with the requirements of this title, and title V as applicable.
under section 413 (b), (c), (d), or (f), section 416, and section 441 (d) or (e), the proposed and approved compliance plan, permit application and permit shall include, pursuant to regulation and requirements established by the Administrator, for each alternative method of compliance a comprehensive description of the schedule and means by which the unit will rely on the alternative method of compliance in the manner and time authorized under part 1 of part B or subpart 1 of part C.

2. OTHER STATEMENTS.—Submission of a statement by the owner or operator, or the designated representative, of a facility that includes a statement subject to the emissions limitations under titles II, subsection (a) of section 422, 423, 452, and 472 that the owner or operator will hold sulfur dioxide allowances, nitrogen oxide allowances, and mercury allowances, as the case may be, in the amount required by such sections shall be deemed to meet the proposed and approved compliance planning requirements of this section and title V with regard to subparts A through D.

3. RECORDING OF TRANSFERS.—Recording by the Administrator of transfers of allowances shall amend automatically, and will not require reopening of or any appeals of proposed or approved permits, applications, compliance plans, and permits.

(c) In the event of the closure of each facility under this title that includes an affected unit subject to title V shall submit a permit application and compliance plan with the requirements stated under sections 412 (c), 422, 423, 441, 452, and 472 for sulfur dioxide emissions, nitrogen oxide emissions, and mercury emissions from such unit to the permitting authority in accordance with the deadline for submission of permits applications and compliance plans under title V. The permitting authority shall issue a permit or determine that the designated representative of such owner or operator, that satisfies the requirements of section 413 (b) and title V and this title.

(d) AMENDMENT OF APPLICATION AND COMPLIANCE PLAN.—At any time after the submission of an application and compliance plan under this section, the applicant may submit a revised application and compliance plan, in accordance with the requirements of this section.

(e) LIMITATION.—

(1) IN GENERAL.—It shall be unlawful for any person to operate any facility subject to this title except in compliance with the terms and conditions of a permit or compliance plan (including amendments thereto) or permit issued by the Administrator or a State with an approved permit application, compliance plans, and permits.

(2) NO TERMINATION OF OPERATIONS.—In order to ensure reliability of electric power, nothing in this title or title V shall be construed as requiring termination of operation of a unit serving a generator for failure to have an approved permit or compliance plan under this section.

(3) CERTIFICATE OF REPRESENTATION.—No permit shall be issued under this section to an affected unit or facility until the designated representative of the owners or operators has filed a certificate of representation with regard to matters under this title, including the holding and distribution of allowances and the proceeds of transactions involving allowances. Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, such an unit, or where a unit or facility, such as a customer purchases power from an affected unit or units under life-of-the-unit, firm power contractual arrangements, the certificate shall state:

(A) That allowances and the proceeds of transactions involving allowance will be deemed to be held or distributed in proportion to each holder’s legal, equitable, leasehold, or contractual reservation or entitlement, or

(B) If such multiple holders have expressly provided for a different distribution of allowances by contract, that allowances and the proceeds of transactions involving allowances will be deemed to be held or distributed in accordance with the contract.

(4) PASSIVE LESSOR.—A passive lessor, of a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the lessor’s receipt, or use of the allowances shall not be deemed to be a holder of a legal, equitable, leasehold, or contractual interest for the purposes of holding or distributing allowances or for purposes of any subpart, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title is held by a single person, the certificate shall state that all allowances received by the unit are deemed to be held for that person.

SEC. 405. MONITORING, REPORTING, AND RECORDKEEPING REQUIREMENTS.

(a) REQUIREMENTS.

(1) APPLICABILITY.

(A) IN GENERAL.—The owner and operator of any facility subject to this title shall be required to install and operate CEMS on each affected unit subject to subpart 1 of part B or subpart 1 of part C at the facility, and to quality assure the data, for sulfur dioxide, nitrogen oxide, opacity, and volumetric flow at each such unit.

(B) SPECIFICATION OF REQUIREMENTS.—The Administrator shall, by regulation, also specify any alternative monitoring systems that is demonstrated as providing information which is reasonably the same precision, reliability, accessibility, and timeliness as that provided by CEMS, and for recordkeeping and reporting of information from such systems. Such regulations may include limitations on the use of alternative compliance methods by units equipped with an alternative monitoring system as may be necessary to preserve the orderly functioning of the allowances system, and which will ensure to a reasonable extent the emissions reductions contemplated by this title.

(2) INSTALLATION AND OPERATION.

(A) IN GENERAL.—The owner and operator of any facility subject to this title shall be required to install and operate CEMS to monitor the emissions from each affected unit at the facility, and to quality assure the data for sulfur dioxide, opacity, and volumetric flow for all affected units subject to subpart 2 of part B at the facility.

(B) ALTERNATIVE MONITORING.

(I) IN GENERAL.—The Administrator may specify an alternative monitoring or compliance system of a unit to determine allowable emissions. In specifying such alternative monitoring or compliance systems, the lack of commercially available appropriate and readily available, or suitable monitoring systems may be a reasonable and permissible basis for specifying alternative monitoring or compliance systems.

(II) LIMITATIONS.—The regulations under clause (iv) may include limitations on the use of alternative compliance methods by units equipped with an alternative monitoring system as may be necessary to preserve the orderly functioning of the allowances system, and which will ensure to a reasonable extent the emissions reductions contemplated by this title.

(III) NO SEPARATE MONITORING.—The regulations under clause (iv) shall not require a unit to install a separate monitoring system for each unit where two or more units utilize a single stack and shall require that the owner or operator collect sufficient information to ensure reliable compliance determinations for such units.

(IV) SPECIFICATION OF REQUIREMENTS.—The Administrator shall, by regulation, specify the requirements under CEMS under subparagraph (A), for any alternative monitoring or compliance system that is demonstrated as providing information which is reasonably the same precision, reliability, accessibility, and timeliness as that provided by CEMS, and for recordkeeping and reporting of information from such systems. Such regulations may include limitations on the use of alternative compliance methods by units equipped with an alternative monitoring system as may be necessary to preserve the orderly functioning of the allowances system, and which will ensure to a reasonable extent the emissions reductions contemplated by this title.

(B) DEADLINE FOR AFFECTED UNITS UNDER SUBPART 2 OF PART B FOR INSTALLATION AND OPERATION OF CEMS.—By the later of the date that is 1 year before the commencement date of the sulfur dioxide allowance requirement of section 422, or the date on which the unit commences commercial operation, the owner or operator of each affected unit under subpart 2 of part B shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to sulfur dioxide, opacity, and volumetric flow.

(2) DEADLINE FOR AFFECTED UNITS UNDER SUBPART 3 OF PART B FOR INSTALLATION AND OPERATION OF CEMS.—By the later of the date that is 1 year before the first covered year, or the date on which the unit commences commercial operation, the owner or operator of each affected unit under subpart 3 of part B shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to sulfur dioxide and volumetric flow.
“(A) IN GENERAL.—The owner or operator of any unit subject to the requirements of section 412(c)(2) that emits sulfur dioxide for any calendar year before 2008 in excess of the sulfur dioxide allowances the owner or operator holds for use for that calendar year shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f)(4) or (5). That penalty shall be calculated as follows:

(1) The product of the unit’s excess emissions (in tons) multiplied by $3,000.

(2) A mount for sulfur dioxide before

(3) E XCESS EMISSIONS OF SULFUR DIOXIDE, NITROGEN OXIDES, OR MERCURY.—If the units at a facility that are subject to the requirements of section 412(c) emit sulfur dioxide for a year after 2007 in excess of the sulfur dioxide allowances the owner or operator of the facility holds for use for that calendar year, the owner or operator shall be liable to offset the excess emissions by an equal tonnage from those held for the facility for the calendar year, or succeeding years during which offsets are required, following the year in which the excess emissions occurred.

(4) UNITS SUBJECT TO SECTIONS 422, 432, 452, OR 472.—If the units at a facility that are subject to the requirements of sections 422, 432, 452, or 472 emit sulfur dioxide, nitrogen oxides, or mercury for any calendar year in excess of the sulfur dioxide, nitrogen oxides allowances, or mercury allowances, as the case may be, the owner or operator of the facility holds for use for the facility for that calendar year, the owner or operator shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f). That penalty shall be equal to—

(A) the quantity of the units’ excess emissions in tons (or, for mercury emissions, in ounces) multiplied by the product obtained by multiplying—

(1) 1.5, and

(2) A respective amount for sulfur dioxide, nitrogen oxides, or mercury specified in paragraph (A)

(B) PAYMENT.—Any penalty under paragraph (A) shall be due and payable without demand to the Administrator as provided in regulations issued by the Administrator. With respect to the penalty under paragraph (A), the Administrator shall implement this paragraph by issuing regulations no later than 24 months after the date of enactment of the Clean Skies Act of 2005. Any such payment shall be deposited in the Compliance Assistance Account.

(2) A MOUNT FOR SULFUR DIOXIDE AFTER

(3) E XCESS EMISSIONS PENALTY.—The owner or operator of any unit subject to the requirements of section 412(c) that emits nitrogen oxides for any calendar year before 2008 in excess of the nitrogen oxides allowances the owner or operator holds for use for that calendar year shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f)(4) or (5). That penalty shall be calculated on the basis of the number of tons emitted in excess of the unit’s emissions limitation requirement multiplied by $2,000.

(4) UNAVAILABILITY OF EMISSIONS DATA.—(1) SULFUR DIOXIDE AND NITROGEN OXIDES.—With respect to sulfur dioxide and nitrogen oxides, if CEMS data or data from an alternate monitoring system approved by the Administrator under subsection (a) is not available for any affected unit during any period of a calendar year in which such data is required under this title, the owner or operator cannot provide information, reasonably satisfactory to the Administrator, on emissions during that period. The Administrator shall implement regulations no later than 24 months after the date of enactment of the Clean Skies Act of 2005. Any such payment shall be deposited in the Compliance Assistance Account.

(5) DEADLINE FOR AFFECTED UNITS UNDER PART D FOR INSTALLATION AND OPERATION OF CEMS.—By the later of the date that is 1 year before the commencement date of the installation requirements under section 472, or the date on which the unit commences operation, the owner or operator of each affected unit under part D of this Act shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to mercury.

(6) IMPLEMENTATION.—With regard to sulfur dioxide, nitrogen oxides, opacity, and volumetric flow, the Administrator shall implement subsections (a) and (c) under 40 CFR part 75 (2002), amended, as appropriate by the Administrator. With regard to mercury, the Administrator shall implement subsections (a) and (c) by issuing proposed regulations not later than 36 months before the commencement date of the mercury emissions limitation requirement under section 472 and implement regulations not later than 24 months before that commencement date.

(7) IT SHALL BE UNLAWFUL FOR THE OWNER OR OPERATOR OF ANY FACILITY SUBJECT TO THIS TITLE TO OPERATE A FACILITY WITHOUT COMPLYING WITH THE REQUIREMENTS OF THIS SECTION, AND ANY REGULATIONS IMPLEMENTING THIS SECTION.

SEC. 406. EXCESS EMISSIONS PENALTY; GENERAL AUTHORITY TO PRESCRIBE OTHER ProVISIONS; ENFORCEMENT.

(1) EXCESS EMISSIONS PENALTY.—(A) AMOUNT FOR OXIDES OF NITROGEN.—The owner or operator of any unit subject to the requirements of section 412(c) that emits nitrogen oxides for any calendar year in excess of the unit’s emissions limitation requirement shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f). That penalty shall be calculated on the basis of the number of tons emitted in excess of the unit’s emissions limitation requirement multiplied by $2,000.

(B) AMOUNT FOR SULFUR DIOXIDE BEFORE

IT SHALL BE UNLAWFUL FOR THE OWNER OR OPERATOR OF ANY FACILITY SUBJECT TO THIS TITLE TO OPERATE A FACILITY WITHOUT COMPLYING WITH THE REQUIREMENTS OF THIS SECTION, AND ANY REGULATIONS IMPLEMENTING THIS SECTION.

SEC. 406. EXCESS EMISSIONS PENALTY; GENERAL AUTHORITY TO PRESCRIBE OTHER PROVISIONS; ENFORCEMENT.

(1) EXCESS EMISSIONS PENALTY.—(A) AMOUNT FOR OXIDES OF NITROGEN.—The owner or operator of any unit subject to the requirements of section 412(c) that emits nitrogen oxides for any calendar year in excess of the unit’s emissions limitation requirement shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f). That penalty shall be calculated on the basis of the number of tons emitted in excess of the unit’s emissions limitation requirement multiplied by $2,000.

(B) AMOUNT FOR SULFUR DIOXIDE BEFORE

IT SHALL BE UNLAWFUL FOR THE OWNER OR OPERATOR OF ANY FACILITY SUBJECT TO THIS TITLE TO OPERATE A FACILITY WITHOUT COMPLYING WITH THE REQUIREMENTS OF THIS SECTION, AND ANY REGULATIONS IMPLEMENTING THIS SECTION.
Index, on November 15, 1990, and annually thereafter.

(d) Prohibition.—It shall be unlawful for the owner or operator of any unit or facility liable to pay the penalty and offset under this section to fail—

(1) to pay the penalty under subsection (a); or

(2) to offset excess emissions as required by subsection (b).

(e) Savings Provision.—Nothing in this title shall limit or otherwise affect the application of section 131, 144, 120, or 304 except as otherwise explicitly provided in this title.

(f) Other Requirements.—Except as expressly provided, compliance with the requirements of this section shall not excuse or exclude the owner or operator of any facility subject to this title from compliance with any other applicable requirements of this Act. Notwithstanding any other provision of this Act, no State or political subdivision thereof shall restrict or interfere with the transfer, sale, or purchase of allowances under this title.

(g) Violations.—Violation by any person subject to this title of any prohibition of, requirement of, or regulation promulgated pursuant to this title shall be a violation of this Act. In addition to the other requirements and prohibitions provided for in this title, the operation of any affected unit or the affected unit or the owner or operator thereof shall be deemed a violation of this Act.

SEC. 407. ELECTION FOR ADDITIONAL UNITS.

(a) Violations.—

(1) IN GENERAL.—The owner or operator of any unit that is not an affected EGU under subpart 2 of part B and subpart 2 of part C and which emits sulfur dioxide and nitrogen oxides at rates in excess of 50 tons per year shall be required to submit an application for the election of additional units.

(2) EFFECT OF DESIGNATION.—If the owner or operator elects to designate an additional unit that is solid fuel-fired and emits mercury vented through a stack or duct that emits mercury in excess of 10 mmBtu per ounce emitted in excess of allowances held constituting a separate violation.

SEC. 408. DESIGNATION FOR PRODUCT OUTPUT BASIS.

(a) IN GENERAL.—The owner or operator of a unit that is subject to new source performance standards or other measures imposed by this Act on a product output basis rather than a heat input basis may elect to designate the unit as an affected unit under subpart 2 of part B and subpart 2 of part C.

(b) APPLICABILITY.—An owner or operator making an election under subsection (a) shall submit an application for the election to the Administrator.

(c) APPROVAL.—Subject to subsections (d) through (m), if the Administrator determines that an application for an election under subsection (b) meets the requirements of subsection (a), the Administrator shall approve the designation as an affected unit under subpart 2 of part B and subpart 2 of part C.

(d) ESTABLISHMENT OF BASELINE.—

(1) IN GENERAL.—After approval of a designation under subsection (c), the Administrator shall determine the baseline output and the baseline sulfur dioxide and nitrogen oxides emission rates for each year after January 1, 2010, during which a unit is an affected unit under subsection (e).

(2) BASELINE PRODUCT OUTPUT AND EMISSIONS BASELINES.—For the purposes of this paragraph, for those units using a product output basis, the baseline product output and baseline sulfur dioxide and nitrogen oxides emission rates under subparagraph (i) shall be calculated, at the election of the owner or operator of the relevant unit, as—

(I) if the unit’s highest product output for 3 of the 5 years preceding the year for which the Administrator is determining the allocations; and

(ii) for emissions baselines, the average of the relevant emissions for the same years used to determine product output; or

(B) BASELINE PRODUCT OUTPUT AND EMISSIONS BASELINES.—For the purposes of this paragraph, for those units using a product output basis, the baseline product output and baseline sulfur dioxide and nitrogen oxides emission rates under subparagraph (i) shall be calculated, at the election of the owner or operator of the relevant unit, as—

(I) if the unit’s highest product output for 3 of the 5 years preceding the year for which the Administrator is determining the allocations; and

(ii) for emissions baselines, the average of the relevant emissions for the same years used to determine product output; or

(C) REGULATIONS.—The Administrator shall promulgate regulations requiring the unit’s baselines for heat input or product output and sulfur dioxide and nitrogen oxides emission rates, as the case may be, for the unit shall be the unit’s baseline heat input or product output and the emission rates of sulfur dioxide and nitrogen oxides in accordance with paragraphs (1) and (2). The Administrator shall promulgate regulations requiring the unit’s baselines for heat input or product output and sulfur dioxide and nitrogen oxides emission rates to be based on the same year and specifying minimum data requirements consistent with paragraph (3) for baseline determinations.

(D) RELIABILITY.—In determining the reliability of data, the Administrator may accept any reliable data on the following:

(i) for emissions baselines, the average of the relevant emissions for the 4-year period prior to the date of enactment of the Clear Skies Act of 2004 (for units that submit an application on or before January 1, 2009), or the average of the relevant emissions for the 4 years before the date of submission of the application under that Act (for units that submit an application after January 1, 2009).

(ii) for baseline product output, the average of the relevant emissions for the 4-year period prior to the date of enactment of the Clean Skies Act of 2004 (for units that submit an application on or before January 1, 2009); or the average of the relevant emissions for the 4 years before the date of submission of the application under that Act (for units that submit an application after January 1, 2009).

(E) EMISION LIMITATIONS.—Nothing in this Act shall limit or otherwise affect the application of the Clean Air Act, as amended by the Clear Skies Act of 2004 (Public Law 108-377) for purposes of this section, the Administrator shall consider the cost of generating more reliable data compared to the quantitative importance of the resulting gain in quantifying emissions.

(F) EMISSION LIMITATIONS.—Nothing in this Act shall limit or otherwise affect the application of the Clean Air Act, as amended by the Clear Skies Act of 2004 (Public Law 108-377) for purposes of this section, the Administrator shall consider the cost of generating more reliable data compared to the quantitative importance of the resulting gain in quantifying emissions.

(G) VIOLATIONS.—Violation by any person subject to this title of any prohibition of, requirement of, or regulation promulgated pursuant to this title shall be a violation of this Act. In addition to the other requirements and prohibitions provided for in this title, the operation of any affected unit or the affected unit or the owner or operator thereof shall be deemed a violation of this Act.

(H) OTHER REQUIREMENTS.—Except as expressly provided, compliance with the requirements of this Act shall not excuse or exclude the owner or operator of any facility subject to this title from compliance with any other applicable requirements of this Act.
a unit is a designated unit under this section.

(B) ALLOCATIONS.—The regulations shall provide for allocations equal to the lesser of—

(i) the product obtained by multiplying—

(ii) the unit’s baseline emission rate for mercury under the national emissions standards for hazardous air pollutants and process heaters, industrial furnaces, kilns, or other stationary source; by—

(iii) the product obtained by multiplying—

(iv) the unit’s most stringent Federal or State mercury emission limitation for mercury emission rates; by—

(v) the unit’s baseline heat input or product output.

(C) DETERMINATION.—Allowances allocated to electing units under paragraphs (1) and (2) shall comprise a separate limitation on emissions from sections 423, 433, 453, 473, and other provisions of this Act. These allowances for sulfur dioxide, nitrogen oxides, or mercury, as the case may be, shall be traddable with allowances allocated under section 414, 424, 434, 454, and 474, as applicable, on the conditions that—

(A) electing units may only trade nitrogen oxides within the respective zones established by section 402(n) within which the electing unit is located; and

(B) affected units within the WRAP States may only purchase sulfur dioxide allowances or mercury allowances distributed by the Administrator to electing units within the WRAP States, and will not be counted for purposes of the affected unit’s emissions within the meaning of the WRAP Annex.

(D) IN GENERAL.—Not later than 180 months after the date of enactment of this section, the Administrator shall promulgate regulations authorizing the allocation of sulfur dioxide, nitrogen oxides, and mercury allowances to units designated under this section that install or modify pollution control equipment or combustion technology improvements identified in such regulations after the date of enactment of this section and prior to January 1, 2010.

(E) PROHIBITION ON CERTAIN ALLOCATIONS.—No allowances shall be allocated under this paragraph for emissions reductions attributable to—

(i) pollution control equipment or combustion technology improvements that were operating or under construction on or before the date of enactment of this section; or

(ii) fuel switching; or

(iii) compliance with any Federal regulation.

(F) ALLOWANCES.—The allowances allocated to any unit under this paragraph shall—

(i) in addition to the allowances allocated under paragraphs (1) and (2) and sections 414, 424, 434, 454, and 474; and

(ii) be allocated in an amount equal to 1 allowance of sulfur dioxide and nitrogen oxides for each 1.65 tons of reduction in emissions of sulfur dioxide and nitrogen oxides, respectively, in the year; or 36 ounces of reduction in the emissions of mercury, achieved by the pollution control equipment or combustion technology improvements starting with the year in which the equipment or improvement is implemented.

(G) WITHDRAWAL.—The Administrator shall promulgate regulations withdrawing from the approved designation under subsection (c) any unit that qualifies as an affected EGU under part 2 of part B or under part C or part D after the approval of the designation of the unit under subsection (c).

(B) REGULATIONS.—Not later than 18 months after the date of enactment of the Clear Skies Act of 2005, the Administrator shall promulgate regulations implementing this section.

(1) APPLICATION PERIOD.—

(i) IN GENERAL.—Applications for designation of units under this section shall be accepted by the Administrator beginning not later than 180 days after the date of enactment of this section.

(ii) APPROVAL AND DISAPPROVAL.—Except as provided in paragraph (3), not later than 270 days after accepting an application under paragraph (1), the Administrator shall approve or disapprove the application.

(3) DETERMINATION OF COMPLETION.—

(A) IN GENERAL.—Not later than 90 days after accepting an application under paragraph (1), the Administrator shall determine whether the application is complete.

(B) DETERMINATION OF COMPLETION.—Unless an application accepted under paragraph (1) is determined to be incomplete under subparagraph (A), the application shall be subject to paragraph (2).

(4) STAY OF DEADLINES.—During the period beginning on the date of acceptance by the Administrator of an application under paragraph (1) and ending on the date on which the Administrator acts on the petition, the applicable compliance deadlines for NSPS under subsection (j) shall not apply to the applicable unit that is the subject of the section (j) NSPS APPLICABILITY.

(1) APPLICABILITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a unit that is designated or is designated to be a major source, or a part of a major emitting facility or major stationary source for purposes of compliance with the requirements of parts C and D of title I, for the 20-year period beginning on the date of enactment of the Clear Skies Act of 2005.

(B) EXCEPT.—Units that are boilers or process heaters, industrial furnaces, kilns, or other stationary sources on or before January 1, 2010, to the emissions limitation for mercury or the equivalent mercury allocation under subsection (f)(2), along with the compliance requirements, that are applicable to such units under the NSPS for those sources promulgated pursuant to section 112(d) for—

(i) Industrial, Commercial, and Institutional Boilers and Process Heaters (Fed. Reg. 69-55217);

(ii) Elecwod and Composite Wood Panel (Fed. Reg. 69-45943);

(iii) Reciprocating Internal Combustion Engines (Fed. Reg. 69-39473); or


(B) EXCLUSION.—Units that are boilers or process heaters, industrial furnaces, kilns, or other stationary sources subject to a regulation or designation of a unit as an affected unit—

(i) that the designated unit either achieves, a limit on the emissions of particulate matter from the affected unit to minimize emissions of carbon monoxide.

(ii) the owner or operator of the affected unit that will operate, maintain, and repair pollution control equipment to limit emissions of particulate matter; and

(iii) the owner or operator of the designated unit that uses good combustion practices to minimize emissions of carbon monoxide.

(2) CLASS I AREA PROTECTIONS.—Notwith- standing the exemption in paragraph (1), an affected unit located in a Class I area on which construction commences after the date of enactment of this
section is subject to those provisions under part C of title I of the review of a new or modified major stationary source's impact on a Class I area.

(1) IN GENERAL.—No unit designated under this section shall transfer or bank allowances produced as a result of reduced utilization of a unit or units subject to the requirements of this subsection, or transfer or bank allowances produced as a result of the replacement of the unit designated under this subsection, or transfer or bank allowances produced as a result of reduced utilization of a unit or units subject to the requirements of this subsection.

(2) NO CREATION.—In no case may the Administrator allocate to a source designated under this section allowances in an amount greater than the emissions reduction associated with the operation, cessation, or removal of a unit that complies with the requirements of this Act.

(3) NO VIOLATION.—No allowances allocated under this Act shall authorize operation of a unit in violation of any other requirements of this Act.

(1) DEFINITION.—In this section, the term "product output" means the output of a stationary source that produces a commercial product other than electricity, water, steam, or gas which may be used to determine a baseline for units for which heat input is not an appropriate baseline.

§ 408. CLEAN COAL TECHNOLOGY REGULATORY INCENTIVES.

(a) DEFINITION.—For purposes of this section, "clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, processing steam, or production of gases, or in the production of products which is not in widespread use as of November 15, 1990.

(b) REVISED REGULATIONS FOR CLEAN COAL TECHNOLOGY DEMONSTRATION.—

(1) APPLICABILITY.—This subsection applies to physical or operational changes to existing or new electrical power generating facilities, including the installation, operation, cessation, or removal of a temporary or permanent clean coal technology demonstration project. For the purposes of this section, a demonstration project shall mean a project using funds appropriated under the heading Department of Energy—Clean Coal Technology, up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency, the Department of Energy, or the Federal Energy Technology program, which are to be used for the purpose of demonstrating clean coal technology demonstration projects that constitute repowering as defined in section 411, any qualifying project shall not be subject to standards of performance under section 111 or to the review and permitting requirements of part C for any pollutants or any period prior to the date of promulgation of any regulations which will not increase as a result of the demonstration project.

(2) EPA REGULATIONS.—Not later than twelve months after November 15, 1990, the Administrator shall promulgate regulations or interpretive rulings to require demonstration projects under section 111 and parts C and D, as appropriate, to obtain permits consistent with these requirements which will not increase as a result of the demonstration project.

(3) CONTENTS OF PETITION.—The petition must contain:

(i) a description of each affected unit, the estimated outage time and a construction schedule;
(ii) an estimate of demand from date of applicability until 2018;
(iii) the impacts on reliability associated with constructing all of the pollution control projects, including those for sulfur dioxide, nitrogen oxides, mercury, or particulate matter, by the respective deadlines; and
(iv) how the proposed schedule would alleviate detrimental impacts.

(b) LIMITATION.—This subsection applies to the construction of repowering projects that constitute repowering as defined in section 111 or part C or D of the Act where the unit under part C or D, any State may adopt and implement plans for the State in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of observation, except that shall not subject the unit to the requirements of section 111 or part C of the Act where the unit—

(1) has not been in operation for the two-year period prior to November 15, 1990, and the emissions from such unit continue to be carried in the permitting authority's emissions inventory on November 15, 1990;

(2) was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;

(3) is equipped with low-NOx burners prior to the time of commencement, and

(4) is otherwise in compliance with the requirements of this Act.

§ 409. ELECTRICITY RELIABILITY.

(a) RELIABILITY.—

(1) APPLICABILITY.—At any time prior to the applicability of this Act under sections 422, 432, 452, and 472, in order to ensure the reliability of an electric utility company or system, as determined to be reasonably sufficient information for a final determination may be submitted to the Secretary of Energy and will be deemed complete.

(b) FINAL DETERMINATION.—In making a final determination the Secretary of Energy, in consultation with the Administrator, shall consider the following factors, provided that not all factors need be present to make electrical power supply equipment that will likely be threatened:

(A) SUPPLY.—The ability of vendors to supply scrubbers; scrubber system equipment, materials and scrubber affected balance of plant equipment including fans, pumps, electric motors, motor drives, control equipment, electrical power supply equipment, and operational equipment to sell at fair prices with meaningful guarantees or warranties as to availability, delivery dates and meeting contracted pollution control reduction requirements or emissions limitations; with similar considerations for nitrogen oxides, mercury or particulate matter control technology, or any combination thereof.

(B) DESIGN AND CONSTRUCTION RESOURCES.—The availability and limitations of key sulfur dioxide, nitrogen oxides or mercury controls designed by North American construction resources. The design resources shall include architect engineers, contractors, owners, construction companies with experience in the design of sulfur dioxide, nitrogen oxides, mercury or particulate matter control technology. The construction resources shall include contractors, owners, and operators of companies involved in the construction of sulfur dioxide, nitrogen oxides, mercury, or particulate matter control technology and trained and experienced resource individuals, including boilermakers, iron workers, electricians, mechanics;

(C) FEASIBILITY OF CONSTRUCTION.—The feasibility to complete in 180 days the construction of any combination of all pollution control technology projects by the relevant applicability compliance deadline;

(D) IMPACT.—The impact in terms of unit outages and construction schedules on a company or systems reliability and whether such impact is unreasonable, which term shall be determined to be submitted to the Secretary of Energy in consultation with the Administrator, shall make a final determination on a petition within 180 days of the submittal of a reasonably complete petition. Failure to act within this period will result in applicability by 12 months for all units subject to the petition.

(ii) a projected reduction in available generating capacity such that adequate reserve margins exist, which expected capacity does not exist, as determined by the Secretary of Energy in coordination with the relevant
Federal or State utility agency or reliability council; or

(ii) a supply shortage of coal needed to meet emissions control expectations for any proposed or planned facility.

(3) Positive determination.—A company or system which submits a petition to install sulfur dioxide, nitrogen oxides, mercury, or particulate matter control technology, or any combination thereof, on affected units equaling 25 percent or more of its coal-fired capacity shall be presumed to meet the requirement to hold such allowances equal to the petitioned year's emissions.

(b) Submission of petition.—During any year covered by this title, an affected unit may submit a petition in accordance with paragraph (a)(2) to a new sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances, as the case may be, located for the immediate next year to meet the applicable requirement to hold such allowances equal to the petitioned year's emissions.

(c) Presidential waiver.—Notwithstanding any other provision of this Act, The President of the United States shall have authority to temporarily grant waivers from emission limitations under this Act to avoid any environmentally damaging effect which the case may be, if the President determines that the reliability of any portion of national electricity supply or national security is imperiled.

PART B—SULFUR DIOXIDE EMISSION REDUCTIONS

Subpart 1—Acid Rain Program

SEC. 411. DEFINITIONS.

(a) For purposes of this subpart and subpart 1 of part B:

(1) Actual 1985 emissions rate.—The term "actual 1985 emission rate", for electric utility units, means the annual sulfur dioxide emissions rate in pounds per million Btu as reported in the 1985 National Acid Precipitation Assessment Program (NAPAP) Emissions Inventory, Version 2, National Utility Reference File (NURF). For nonutility units, the term "actual 1985 emission rate" means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the NAPAP Emissions Inventory, Version 2.

(2) Allowable 1985 emissions rate.—The term "allowable 1985 emissions rate" means a federalally enforceable emissions limitation for sulfur dioxide or oxides of nitrogen, applicable to the unit in 1985 or the limitation applicable in such other subsequent year as determined by the Administrator if such a limitation for 1985 does not exist. Where the emissions limitation for a unit is not expressed in pounds per million Btu, or the averaging period of that emissions limitation is not expressed on an annual basis, the Administrator shall calculate the annual equivalent of that emissions limitation.

(3) Alternative method of compliance.—The term "alternative method of compliance" means a method of compliance in accordance with one or more of the following authorities:

(A) A substitution plan submitted and approved in accordance with subsections (b)(3)(a) and (c); or

(B) a phase I extension plan approved by the Administrator under section 414(d)(4), using qualified technology as determined by the Administrator in accordance with that section.

(4) Baseline.—The term "baseline" means the annual quantity of fossil fuel consumed by an affected unit, measured in millions of British Thermal Units ("mmBtu's"), calculated as follows:

(A) For each utility unit that was in commercial operation prior to January 1, 1985, the baseline shall be the annual average quantity of mmBtu consumed during calendar years 1985, 1986, and 1987, as recorded by the Department of Energy pursuant to Form 767. For any unit that was in commercial operation beginning on January 1, 1985, the baseline shall be the level specified for such unit in the 1985 (NAPAP) Emissions Inventory, Version 2 (corrected data base as established by the Administrator pursuant to paragraph (3)). For nonutility units, the baseline in the NAPAP Emissions Inventory in the Administrator's sole discretion, may exclude periods during which a unit is shut down for a continuous period of 4 calendar months or longer, and make appropriate adjustments under this paragraph. Upon petition of the owner or operator of any unit, the Administrator may make appropriate base-line adjustments for instances of fuel supply, failure of equipment, other causes beyond the reasonable control of the owner or operator of the unit that caused such exclusion.

(B) For any other nonutility unit that is not included in the NAPAP Emissions Inventory, Version 2, or a corrected data base as established by the Administrator pursuant to paragraph (3), the baseline shall be the annual average quantity, in mmBtu consumed in fuel by that unit, as calculated pursuant to a method which the Administrator shall prescribe by regulation to be promulgated not later than 18 months after November 15, 1990.

(5) The Administrator shall, upon application or on his own motion, by December 31, 1991, supplement data needed in support of this subpart and correct any factual errors in data from which affected phase II units' baselines or actual 1985 emission rates have been calculated. Corrected data shall be used for purposes of issuing allowances under this subpart. Such corrections shall not be subject to judicial review, nor shall the failure of the Administrator to correct an alleged factual error in such reports be subject to judicial review.

(6) Basic phase II allowance allocations.—The term "basic phase II allowance allocations" means:

(A) For calendar years 2000 through 2009 inclusive, allocations of allowances made by the Administrator pursuant to section 412(b) and subsections (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4), and (5); (f); (g)(1), (2), (3), and (4); (h); (i); and (j) of section 414.

(B) For each calendar year beginning in 2010, allocations of allowances made by the Administrator pursuant to section 412 and subsections (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4), and (5); (e); (f); (g)(1), (2), (3), and (4); (h)(1) and (3); and (i) and (j) of section 414.

(7) Capacity factor.—The term "capacity factor" means the ratio between the actual electric output from a unit and the potential electric output from that unit.

(8) Construction.—The term "construction" means the commencement of a continuous program of construction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction.

(9) Commence construction.—The term "commenced construction" means the commencement of a continuous program of construction (or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction) with regard to a unit means the start up of the unit's combustion chamber and commencement of the generation of electricity for sale.

(10) Construction.—The term "construction" means the commencement of a continuous program of construction, or installation of an affected unit.

(11) Existing unit.—The term "existing unit" means a unit (including units subject to construction) that was in commercial operation before November 15, 1990. Any unit that commenced commercial operation before November 15, 1990, which is modified, reconstructed, or reequipped after November 15, 1990, shall continue to be an existing unit for the purposes of this subpart. For the purposes of this subpart, existing units shall not include simple combustion turbines, or units which have a combined cycle with a nameplate capacity of 25 MWe or less.

(12) Independent power producer.—The term "independent power producer" means any person who owns or operates, in whole or in part, one or more new independent power production facilities.

(13) Individual source.—The term "individual source" means a unit that does not serve a generator that produces electricity, a "nonutility unit" as defined in this section, or an access source.

(14) Life-of-the-unit firm power contractual arrangement.—The term "life-of-the-unit firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of capacity and associated energy generated by a specified generating unit (or units) and pays its proportional amount of such unit's wholesale costs, pursuant to a contract either:

(A) For the life of the unit;

(B) for a cumulative term of no less than 30 years, including contracts that permit an early termination for cause;

(C) for a period equal to or greater than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit is placed in service, whichever is less.

(16) New unit.—The term "new unit" means a unit that commences commercial operation on or after November 15, 1990.

(16) Nonutility unit.—The term "nonutility unit" means a unit other than a utility unit.

(17) Phase II bonus allowance allocations.—The term "phase II bonus allowance allocations" means, for calendar years 2000 through 2009, inclusive, and only for such years, allocations made by the Administrator pursuant to section 412, subsections (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4), and (5); (e); (f); (g)(1), (2), (3), and (4); (h)(1) and (3); and (i) and (j) of section 414.

(18) Qualifying phase I technology.—The term "qualifying phase I technology" means a technological system of continuous emission reduction which achieves a 90 percent reduction in emissions of sulfur dioxide or nitrogen oxides, or both, from the use of fuels which were not subject to treatment prior to combustion.
December 31, 2007, it shall be unlawful for a new utility unit to emit an annual tonnage of sulfur dioxide in excess of the number of allowances to emit held for the unit by the unit's owner or operator.

(2) Prohibition of Exceeding Source Allowances.—Starting January 1, 2008, a new utility unit shall be subject to the prohibition in subsection (c)(3).

(3) Eligibility for Allocation of Sulfur Dioxide Allowances.—New utility units shall not be eligible for an allocation of sulfur dioxide allowances under subsections (a)(1), unless the unit is subject to the provisions of subsection (c)(2) or (3) of section 414. New utility units may obtain allowances from the Administrator, by the owner or operator of any new utility unit in violation of subsection (b)(1) or subsections (c)(3) shall be liable for fulfilling the obligations specified in section 406.

(c) Prohibitions.—(1) In General.—It shall be unlawful for any person to hold, use, or transfer any allowance allocated under this subpart, except in accordance with regulations promulgated by the Administrator.

(2) Prohibition of Exceeding Unit Allowances.—For any year 1995 through 2007, it shall be unlawful for any affected unit to emit sulfur dioxide in excess of the number of allowances allocated for that year by the owner or operator of the unit.

(3) Prohibition of Exceeding Source Allowances.—Starting January 1, 2008, it shall be unlawful for any new utility unit to emit or cause to be emitted any sulfur dioxide from all utility units in excess of the tonnage limitation stated as a total number of allowances in table A for phase 1 unless—

(a) The emissions reduction requirements applicable to such unit have been achieved pursuant to subsection (b) or (d); or

(b) The owner or operator of such unit holds allowances to emit not less than the amount of the tonnage limitation stated as the total number of allowances in table A for phase 1, and shall validate the allowances equal to the number of tons determined therein, not to exceed a total of 3.5 million tons. In making such a determination, the Administrator shall compute for each unit subject to the emissions limitation requirements of this section the difference between (a) the product of its baseline multiplied by the lesser of each unit's allowable 1985 emissions rate and its actual 1985 emissions rate, divided by 2,000; and (b) the product of each unit's baseline multiplied by 2.5 lb/mmBtu divided by 2,000, and sum the computations. The Administrator shall adjust the foregoing calculation to reflect projected calendar year 1995 utilization of the units subject to the emissions limitations of this subpart. The Administrator shall determine the difference in tonnage allowances that are allocated and the tonnage limitations that are applicable to such units for calendar year 1995 that are determined as a result of compliance with the emissions limitations requirements of this section and shall establish a system for issuing, recording, and tracking allowances under section 406, or the Administrator shall promulgate regulations establishing a system for issuing, recording, and tracking allowances under section 406 in accordance with regulations promulgated by the Administrator. Notwithstanding the preceding sentence, the Administrator shall continue to ensure electricity reliability, regulations to determine the total amount of allowances in the reserve established hereunder until the difference in tonnage allowances determined by the Administrator shall not exceed the total number of allowances.

(4) Effect on Other Emission Limitations.—Upon the allocation of allowances under this subpart, the prohibition in paragraph (b) shall supersede any other emission limitation applicable under this subpart to the units for which such allowances are allocated.

(d) Limitation on Regulations.—In order to ensure electricity reliability, regulations establishing a system for issuing, recording, and tracking allowances under section 406(b) and this subpart shall not prohibit or affect temporary increases and decreases in emissions within utility systems, power pools, or utilities entering into allowance pool agreements. For any year 1995 through 2007, the Administrator shall not provide any allowances for the purposes of any such utility system, power pool, or allowance pool agreements, except as provided in this subpart. The Administrator shall provide allowances to units for the purposes of that year for the owner or operator of the system, power pool, or allowance pool agreements to ensure electricity reliability, regulations to determine the total amount of allowances in the reserve established hereunder until the difference in tonnage allowances determined by the Administrator shall not exceed the total number of allowances.

(2) Determination.—Not later than December 31, 1991, the Administrator shall determine the total amount of tonnage reductions in compliance with subsection (a) of this section, and shall allocate the allowances according to the provisions of sections 413 and 414 to such utility units that will reduce, pro rata, the basic phase II allowance allocations for each unit subject to the requirements of section 414. The Administrator shall not allocate annual emission allowances for sulfur dioxide or other pollutants that the Administrator shall not take into account unused allowances carried forward by owners and operators of affected units or by other persons holding such allowances, following the year for which they were allocated. If necessary to meet the restrictions imposed in the preceding sentence, the Administrator shall reduce, pro rata, the basic phase II allowance allocations for each unit subject to the requirements of section 414. Subject to the provisions of section 414, the Administrator shall allocate allowances for each affected unit at an affected source annually, as provided in paragraphs (2) and (3) and section 404. Except as provided in section 414, the Administrator shall not terminate or otherwise affect the allocation of allowances pursuant to section 413 or 414 to which the unit is entitled. Prior to January 1, 1991, the Administrator shall publish a revised final statement of allowance allocations, subject to the provisions of section 414(a)(2).

(3) Prohibition of Exceeding Unit Allowances.—After January 1, 2000 and through December 31, 2007, it shall be unlawful for a new utility unit to emit an annual tonnage of sulfur dioxide in excess of the number of allowances to emit held for the unit by the unit's owner or operator.

(2) if such multiple holders have expressly provided for a different distribution of allowances by contract, that allowances under this subpart and the proceeds of transactions involving such allowances shall be held or distributed in accordance with the terms of the instruments governing such transactions in accordance with regulations promulgated by the Administrator.

A passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the affected unit shall not be deemed to be a holder of a legal, equitable, leasehold, or contractual interest for the purposes of any of the provisions of this subpart as provided in this subsection, where either the term of such leasehold or thereafter, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title to or interest in an affected unit is held by a single person, the certification shall state that all allowances under this subpart received by the unit are deemed to be held for that person.
‘(3) ADDITIONAL ALLOCATIONS.—In addition to allowances allocated pursuant to paragraph (1), in each calendar year beginning in 1995 and ending in 1999, the Administrator shall, for each unit or units of a facility that is located in the States of Illinois, Indiana, or Ohio (other than units at Kyger Creek, Clifty Creek and Joppa Steam), allowances to meet sulfur dioxide reduction requirements to the extent of the unit’s pro rata share of the total number of allowances allocated for all units on table A in the 3 States (other than units at Kyger Creek, Clifty Creek, and Joppa Steam) pursuant to paragraph (1). Such allowances shall be excluded from the calculation of any dilution of the baseline pursuant to paragraph (2).

‘(b) SUBSTITUTIONS.—The owner or operator of an affected unit under subsection (a) may include in its section 404 permit application a proposal that the unit employ a qualifying phase I technology, or transfer its phase I emissions reduction obligations to another unit, or substitute affected units designated under subsection (a) of paragraph (4) for fulfilling the obligations specified in section 404, that shall govern operations at the extension unit.

‘(2) REQUIREMENTS FOR EXTENSION PROPOSALS.—Such extension proposal shall—

‘(A) specify the unit or units proposed for designation as an eligible phase I extension unit;

‘(B) provide a copy of an executed contract, which may be contingent upon the Administrator approving the proposal, for the design engineering, and construction of the qualifying phase I technology for the extension unit, or for the unit or units to which the extension unit’s emission reduction obligation is to be transferred;

‘(C) specify the unit’s or units’ baselines, actual 1985 emissions rates, allowable 1985 emissions rates, and allowances utilized for calendar years 1995 through 1999;

‘(D) require CEMS on both the eligible phase I extension unit or units and the transferring unit or units or unit beginning no later than January 1, 1995; and

‘(E) specify the emission limitation and number of allowances expected to be necessary to achieve the qualifying phase I technology has been installed.

‘(3) APPROVAL OR DISAPPROVAL.—The Administrator shall review and take final action on each proposal within 30 days from the date of receipt, consistent with section 404, and for an approved proposal shall designate the unit or units as an eligible phase I extension unit or units if such an extension proposal in whole or in part, and with such modifications or conditions, as may be necessary, consistent with the orderly functioning of the allowance system, and to ensure the emissions reductions contemplated by this title. If a proposal does not meet the requirements of subsection (b), the Administrator may disapprove the proposal.

‘(4) DETERMINING THE AVAILABILITY OF ALLOCATIONS.—In order to determine the number of proposals eligible for allocations from the reserve under subsection (a)(2) and the number of allowances remaining available in the reserve by the number of allowances calculated pursuant to paragraphs (A), (B), and (C) until no allowances remain available in the reserve for further allocation or all approved proposals have been acted upon. If no allowances remain available in the reserve for further allocation before all proposals have been acted upon by the Administrator, all approved proposals shall be disapproved. The Administrator shall calculate allowances equal to—

‘(A) the difference between the lesser of the average annual emissions under the Standard for years 1988 and 1989 or the projected emissions tonnage for calendar year 1995 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit’s baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000;

‘(B) the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1995 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit’s baseline multiplied by an emission rate of 1.20 lbs/mmBtu, divided by 2,000, exceeds (ii) the tonnage level specified in paragraph (2) of this subsection multiplied by a factor of 3.

‘(4) ALLOCATION OF INITIAL ALLOWANCES.—

‘(A) Each eligible phase I extension unit shall receive such initial allowances as the Administrator determines under subsection (a)(x) of this section. In addition, for calendar year 1995, the Administrator shall allocate allowances for each eligible phase I extension unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 and its projected emissions tonnage for calendar year 1995 and the product of the unit’s baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000, in calendar year 1996, the Administrator shall allocate for each eligible unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 and its projected emissions tonnage for calendar year 1996 and the product of the unit’s baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. It shall be unlawful for any source or unit to transfer any portion of its allocation under this subsection to emit sulfur dioxide in excess of the emissions limitations provided for under section 404, that is transferred to another unit, unless the owner or operator of each such unit holds allowances to emit not less than the unit’s total annual emissions.

‘(5) ALLOCATION OF ADDITIONAL ALLOWANCES.—In addition to allowances specified in paragraph (4), the Administrator shall allocate for each eligible phase I extension unit employing qualifying phase I technology, for calendar years 1997, 1998, and 1999, additional allowances, from any remaining allowances available in the reserve pursuant to subsection (a)(2), following the reduction in the reserve provided for in paragraph (4), not to exceed the amount by which (A) the product of each eligible unit’s baseline in excess of an emission rate of 1.20 lbs/mmBtu, divided by 2,000 exceeds (B) the tonnage level specified under subparagraph (E) of paragraph (2) of this subsection by a factor of 3.

‘(6) DEDUCTION FROM ANNUAL ALLOWANCE ALLOCATIONS.—After January 1, 1997, in addition to any liability under this Act, including a liability under this title, the Administrator shall subtract from any annual allotment or entitled annual allotment the number of allowances remaining available in the reserve by the number of allowances calculated pursuant to paragraphs (A), (B), and (C) until no allowances remain available in the reserve for further allocation or all approved proposals have been acted upon. If no allowances remain available in the reserve for further allocation before all proposals have been acted upon, the Administrator shall allocate such allowances equal to those amounts by any transfer or any transfer unit under this subsection to emit sulfur dioxide in excess of the emissions limitations provided for under section 404, that is transferred to another source or unit that is allocated allowances pursuant to this section to fulfill emissions reductions in excess of the emissions limitation provided for in the approved substitution permit and plan unless the owner or operator of each such unit holds allowances to emit not less than the unit’s total annual emissions.

‘(7) ADDITIONAL REQUIREMENTS.—In addition to any requirements imposed pursuant to this title, the Administrator shall promulgate such requirements as he deems necessary to carry out the purposes of this title.
shall, in the calendar year following such excess, deduct allowances equal to the amount of such excess from such unit's annual allowance allocation.

(e) EARLY REDUCTIONS.—

(1) IN GENERAL.—In the case of a unit that receives authorization from the Governor of the State in which such unit is located to make reductions in the emissions of sulfur dioxide prior to calendar year 1995 and that is part of a utility system that meets the following requirements—

(A) the total coal-fired generation within the utility system as a percentage of total system generation decreased by more than 20 percent between January 1, 1985, and December 31, 1985; and

(B) the weighted capacity factor of all coal-fired units within the utility system averaged over the period from January 1, 1985, through December 31, 1987, was below 50 percent, the Administrator shall allocate allowances under this subsection for early reductions in any prior year may not exceed the amount by which which (A) the product of the unit's baseline sulfur dioxide emission rate (in lbs per mmBtu), divided by 2,000 exceeds (B) the allowances specified for such unit in table A. In the case of an affected unit under section 414, the allowances awarded under this subsection for early reductions in any prior year may not exceed the amount by which—

(A) the total coal-fired generation within the utility system as a percentage of total system generation decreased by more than 20 percent between January 1, 1985, and December 31, 1985; and

(2) LIMITATIONS.—In the case of an affected unit under this section in subparagraph (A), the allowances allocated under this subsection for early reductions in any prior year may not exceed the amount which (A) the product of the unit's baseline sulfur dioxide emission rate (in lbs per mmBtu), divided by 2,000 exceeds (B) the allowances specified for such unit in table A. In the case of an affected unit under section 414, the allowances awarded under this subsection for early reductions in any prior year may not exceed the amount by which—

(A) the total coal-fired generation within the utility system as a percentage of total system generation decreased by more than 20 percent between January 1, 1985, and December 31, 1985; and

(3) NO BASIS FOR EXCUSED NONPERFORMANCE.—In no event shall the provisions of this paragraph be interpreted as an event of force majeure or a commercial impracticability or in any other way as a basis for excused nonperformance by a utility system under a coal sales contract in effect before November 1, 1990.

*TABLE A—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)*

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### TABLE A

**AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)**—Continued

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TABLE A—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)—Continued

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**“(f) ENERGY CONSERVATION AND RENEWABLE ENERGY.”**

**“(1) Definitions.—As used in this subsection:**

**“(A) QUALIFIED ENERGY CONSERVATION MEASURE.—**The term ‘qualified energy conservation measure’ means a cost effective measure, as identified by the Administrator in consultation with the Secretary of Energy, that increases the efficiency of the use of electricity provided by an electric utility to its customers.

**“(B) QUALIFIED RENEWABLE ENERGY.—The term ‘qualified renewable energy’ means energy derived from biomass, solar, geothermal, or wind as identified by the Administrator in consultation with the Secretary of Energy.**

**“(C) Electric utility.—The term ‘electric utility’ means any person, State agency, or Federal agency, which sells electric energy.**

**“(2) ALLOWANCES FOR EMISSIONS AVOIDED THROUGH ENERGY CONSERVATION AND RENEWABLE ENERGY.—**

**“(A) IN GENERAL.—The regulations under paragraph (4) of this subsection shall provide that for each ton of sulfur dioxide emissions avoided by an electric utility, during the applicable period, through the use of qualified energy conservation measures or qualified renewable energy, the Administrator shall allocate a single allowance to such electric utility, on a first-come-first-served basis from the Conservation and Renewable Energy Reserve established under subsection (g), up to a total of 300,000 allowances for allocation from such Reserve.**

**“(B) REQUIREMENTS FOR ISSUANCE.—The Administrator shall allocate allowances to an electric utility under this subsection only if all of the following requirements are met:**

**(1) Such electric utility is paying for or participating in the qualified energy conservation measures or qualified renewable energy.

**(2) The emissions of sulfur dioxide avoided through the use of qualified energy conservation measures or qualified renewable energy are quantified in accordance with regulations promulgated by the Administrator under this subsection.**

**(iii)(I) Such electric utility has adopted and is implementing a least cost energy conservation and electric power plan which evaluates a range of resources, including new power supplies, energy conservation, and renewable energy resources, in order to meet expected future demand at the lowest system cost.**

**(II) The qualified energy conservation measures or qualified renewable energy, or both, are consistent with that plan.**

**(IV) In the case of electric utilities subject to the jurisdiction of a State regulatory authority such plan shall have been approved by such authority. For electric utilities not subject to the jurisdiction of a State regulatory authority such plan shall have been approved by the Administrator.**

**(V) In the case of qualified energy conservation measures undertaken by a State regulated electric utility, the Secretary of Energy shall allocate allowances to such utility under this subsection only if the utility is a governmental entity and provides the plan described in subparagraph (B).**
Energy has certified that the State regulatory authority with jurisdiction over the electric rates of such electric utility has established the rates and charges which ensure that the net income of such electric utility after implementation of specific cost effective energy conservation measures is at least as high as such net income would have been if the energy conservation measures had not been implemented. Upon the date of any such certification by the Secretary of Energy, all allowances which, but for this paragraph, would have been allocated under subparagraph (B) before such date, shall be allocated to the electric utility. This clause is not a requirement for qualified renewable energy.

(v) Such utility or any subsidiary of the utility’s holding company owns or operates at least one affected unit.

(2) Determination of avoided emissions.—

(i) Application.—In order to receive allowances under this subsection, an electric utility shall make an application which—

(II) calculates, in accordance with subparagraphs (F) and (G), the number of tons of emissions avoided by reason of the implementation of such measures or the use of such renewable energy sources; and

(ii) demonstrates that the requirements of subparagraph (B) have been met.

(ii) Approval.—Such application for allowances by a State-regulated electric utility shall require approval by the State regulatory authority with jurisdiction over such electric utility after the application for accuracy and compliance with this subsection and the rules under this subsection precludes a State or State regulatory authority from providing additional incentives to encourage investment in demand-side resources.

(3) Period of applicability.—

(i) Duration.—Allowances under this subsection shall be allocated only with respect to kilowatt hours of electric energy saved by qualified energy conservation measures or generated by qualified renewable energy after January 1, 1992, and before the earlier of (I) December 31, 2000, or (ii) the date on which the electric utility steam generating unit owned or operated by the electric utility to which the allowances are allocated becomes subject to this part (including those sources that elect to become affected by this title, pursuant to section 417).

(ii) Determination of avoided emissions.—

(i) Application.—In order to receive allowances under this subsection, an electric utility shall make an application which—

(II) designates the qualified energy conservation measures implemented and the qualified renewable energy sources used for purposes of paragraph (ii);

(ii) calculates, in accordance with subparagraphs (F) and (G), the number of tons of emissions avoided by reason of the implementation of such measures or the use of such renewable energy sources; and

(iii) demonstrates that the requirements of subparagraph (B) have been met.

(ii) Approval.—Such application for allowances by a State-regulated electric utility shall require approval by the State regulatory authority with jurisdiction over such electric utility after the application for accuracy and compliance with this subsection and the rules under this subsection precludes a State or State regulatory authority from providing additional incentives to encourage investment in demand-side resources.

(4) Regulations.—The Administrator shall implement this subsection under 40 CFR part 73 as appropriate by the Administrator. Such regulations shall list energy conservation measures and renewable energy sources which may be treated as qualified energy conservation measures and qualified renewable energy for purposes of this subsection. Allowances shall only be allocated if all requirements of this subsection and the rules promulgated to implement this subsection are complied with. The Administrator shall review the determinations of each State regulatory authority under this subsection and shall report to Congress on a biennial basis.

(c) Conservation and Renewable Energy Reserve.—The Administrator shall establish a Conservation and Renewable Energy Reserve under this subsection. Beginning on January 1, 1995, the Administrator may allocate allowances to the Renewable Energy Reserve an amount equal to a total of 300,000 allowances for emissions of sulfur dioxide pursuant to section 411. In order to provide for such reserve, in each year beginning in calendar year 2000 and until calendar year 2009, inclusive, the Administrator shall reduce each unit’s basic phase II allowance allocation on the basis of its pro rata share of 30,000 allowances. Notwithstanding the prior sentence, if allowances allocated pursuant to paragraph (1) and section 412(a) as basic phase II allowances allocations in an amount equal to the baseline selected by the Administrator for the lifetime emission rate for such unit in 1989, or 1.0 lbs/mmBtu. Such allowance allocation shall be in lieu of any allocation of allowances under this subsection.

SEC. 414. PHASE II SULFUR DIOXIDE REQUIREMENTS.

(a) Applicability.—

(i) Basic Phase II Allowance Allocations.—After January 1, 2000, each existing utility unit as provided below is subject to the limitations or requirements of this section. Each utility unit subject to an annual sulfur dioxide tonnage emission limitation under this section is an affected unit under this subsection. Each source that includes one or more affected units is an affected source.

In the case of an existing unit that was not in operation during calendar year 1985, the emission rate for a calendar year after 1985, as determined by the Administrator, shall be in lieu of the 1985 rate.

(i) Basic Phase II Bonus Allowance Allocations.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 350,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(j) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(k) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(l) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(m) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(n) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(o) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(p) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(q) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(r) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(s) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(t) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(u) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(v) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(w) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.

(x) Additional Allowance Allocations for Certain Affected Sources and Units.—In addition to basic phase II allowances allocations and phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate up to 450,000 phase II bonus allowances to subsections (b)(2), (c)(4), (d)(3) (A) and (B), and (d)(2) of this section and section 415.
from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 percent of the difference, on a Btu basis, between the unit’s baseline fuel consumption at a 60 percent capacity factor.

“(3) PROHIBITION.—After January 1, 2000, it shall be unlawful for any existing utility unit with an annual sulfur dioxide emissions limitation equal to or greater than 1.20 lbs/mmBtu whose annual average fuel consumption during 1985, 1986, and 1987 on a Btu basis exceeded 90 percent of its fuel capacity consisting of coal-fired units of 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the total annual emissions for a year after 2007, or the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(4) ANNUAL ALLOWANCE ALLOCATIONS.—After January 1, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MW and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit’s baseline multiplied by the lesser of the unit’s actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(5) CERTAIN ELECTRIC UTILITY SYSTEMS.—After January 1, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MW and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit’s baseline multiplied by the lesser of the unit’s actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(6) CERTAIN ELECTRIC UTILITY SYSTEMS.—After January 1, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MW and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit’s baseline multiplied by the lesser of the unit’s actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(7) CERTAIN ELECTRIC UTILITY SYSTEMS.—After January 1, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MW and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit’s baseline multiplied by the lesser of the unit’s actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(8) RESERVE ALLOWANCE.—After January 1, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MW and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit’s baseline multiplied by the lesser of the unit’s actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(9) RESERVE ALLOWANCE.—After January 1, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MW and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit’s baseline multiplied by the lesser of the unit’s actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

“(10) RESERVE ALLOWANCE.—After January 1, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MW and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit’s baseline multiplied by the lesser of the unit’s actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.
adjusted to reflect operation at a 60 percent capacity factor, divided by 2,000, exceeds
(ii) the number of allowances allocated for the paragraph pursuant to (1) and section 412(a)(1) as basic phase II allowance allocations.

(B) UNITS SUBJECT TO CERTAIN LIMITATIONS.—In addition to allowances allocated pursuant to paragraph (2) and section 412(a) as basic phase II allowance allocations, at the election of the designated representative of the operating company beginning January 1, 1985, and for the calendar year 1986 and thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of this subsection, as basic phase II allowance allocations, pursuant to the provisions of paragraph (2) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the amount by which—
(i) the product of the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate multiplied by the unit's baseline assumed to reflect operation at a 60 percent capacity factor, divided by 2,000, exceeds
(ii) the number of allowances allocated for the paragraph pursuant to (1) and section 412(a)(1) as basic phase II allowance allocations.

(C) ELECTION BY OPERATING COMPANY.—An operating company may elect to have the emissions limitation requirements of this subsection apply to the unit in lieu of allocation pursuant to paragraph (2) and section 412(a) as basic phase II allowance allocations.

§521.104 Alternatives to regulation (b) and (c) only in accordance with this subsection and section 412(a) as basic phase II allowance allocations.

(i) IN GENERAL.—After January 1, 2000, it shall be unlawful for any oil and gas-fired existing fuel-fired unit the lesser of whose actual or allowable 1985 emissions rate is less than 0.60 lbs/mmBtu and whose average annual fuel consumption during the period 1980 through 1989 on a Btu basis was 50 percent or less in the form of natural gas to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by—
(A) the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions, and
(B) a numerical factor of 120, divided by 2,000, unless the owner or operator of any such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(ii) ADDITIONAL ALLOCATION.—In addition to allowances allocated pursuant to paragraph (1) as basic phase II allowance allocations and section 412(a), beginning January 1, 2000, the Administrator shall, in the case of any unit operated by a utility that furnishes electricity, electric energy, steam, and natural gas within an area consisting of a city and 1 contiguous county, and in the case of any unit owned by a State authority, the output of which is furnished within that same area consisting of a city and 1 contiguous county, the Administrator shall allocate for each unit in the utility its pro rata share of 7,000 allowances and for each unit in the State authority its pro rata share of 2,000 allowances.

(g) UNITS THAT COMMENCE COMMERCIAL OPERATION BETWEEN 1986 AND DECEMBER 31, 1991.—(1) IN GENERAL.—After January 1, 2000, it shall be unlawful for any utility unit that has commenced commercial operation after December 31, 1990 and that commenced commercial operation after January 1, 1991, and December 31, 1995, for which there has been allocated a proposed or final prohibition order pursuant to section 301(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq., repealed 1987) to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, and 65 percent capacity factor multiplied by the lesser of 1.20 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000, unless the owner or operator of any such utility unit the lesser of whose actual or allowable 1985 emissions, and

(3) UNITS THAT COMMENCED COMMERCIAL OPERATION BETWEEN JANUARY 1, 1985, AND DECEMBER 31, 1991.—(1) IN GENERAL.—After January 1, 2000, it shall be unlawful for any existing utility unit that has commenced construction before December 31, 1987 and that commences commercial operation between January 1, 1991, and December 31, 1995, for which there has been allocated a proposed or final prohibition order pursuant to section 301(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq., repealed 1987) to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, and 65 percent capacity factor multiplied by the lesser of 1.20 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000.

(5) UNITS THAT CONVERTED TO COAL FIRED OPERATION BETWEEN JANUARY 1, 1985, AND DECEMBER 31, 1995.—After January 1, 2000, it shall be unlawful for any existing utility unit that has converted from predominantly gas fired existing operation to coal fired operation between January 1, 1985, and December 31, 1995, for which there has been allocated a proposed or final prohibition order pursuant to section 301(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq., repealed 1987) to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, and 65 percent capacity factor multiplied by the lesser of 1.20 lbs/mmBtu or the unit's allowable sulfur dioxide emissions rate (converted, if necessary, to pounds per mmBtu), divided by 2,000.

(6) APPLICABILITY TO QUALIFYING SMALL POWER PRODUCTION FACILITIES, QUALIFYING COGENTRATION FACILITIES, AND NEW INDEPENDENT POWER PRODUCTION FACILITIES.—Unless the Administrator has approved a designation of such facility under section 413, the provisions of this section shall apply to a 'qualifying small power production facility' or 'qualifying cogeneration facility' (within the meaning of section 3(17)(C) or 3(18)(B) of the Federal Power Act) or to a 'new independent power production facility' if, as of November 15, 1990—
(A) an applicable power sales agreement has been executed.

(6) APPLICABILITY TO QUALIFYING SMALL POWER PRODUCTION FACILITIES, QUALIFYING COGENTRATION FACILITIES, AND NEW INDEPENDENT POWER PRODUCTION FACILITIES.—Unless the Administrator has approved a designation of such facility under section 413, the provisions of this section shall apply to a ‘qualifying small power production facility’ or ‘qualifying cogeneration facility’ (within the meaning of section 3(17)(C) or 3(18)(B) of the Federal Power Act) or to a ‘new independent power production facility’ if, as of November 15, 1990—
(A) an applicable power sales agreement has been executed.

(b) the facility is the subject of a State regulatory authority order requiring an electric utility to enter into a power sales agreement to sell to the power facility (for purposes of establishing terms and conditions of the electric utility's purchase of power) enter into arbitration concerning, the facility.

(c) an electric utility has issued a letter of intent or similar instrument committing

---

TABLE B

<table>
<thead>
<tr>
<th>Unit</th>
<th>Allowances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brandon Shores</td>
<td>8,907</td>
</tr>
<tr>
<td>Miller 4</td>
<td>9,197</td>
</tr>
<tr>
<td>MW Dee</td>
<td>9,400</td>
</tr>
<tr>
<td>Zimmer 1</td>
<td>16,658</td>
</tr>
<tr>
<td>witch 1</td>
<td>1,747</td>
</tr>
<tr>
<td>Clower 1</td>
<td>1,796</td>
</tr>
<tr>
<td>Clower 2</td>
<td>1,796</td>
</tr>
<tr>
<td>Twin Oaks 2</td>
<td>1,796</td>
</tr>
<tr>
<td>Clinic 1</td>
<td>6,401</td>
</tr>
<tr>
<td>Clinic 2</td>
<td>1,795</td>
</tr>
</tbody>
</table>

Notwithstanding any other paragraph of this subsection, provided that the owner or operator of any unit listed on table B may elect an allocation of allowances under another paragraph of this subsection in lieu of an allocation under this paragraph.
to purchase power from the facility at a previously offered or lower price and a power sales agreement is executed within a reasonable period of time; or

(2) the entity has been selected as a winning bidder in a utility competitive bidding solicitation.

(2) OIL AND GAS-FIRED UNITS LESS THAN 10 PERCENT OIL CONSUMED.—

(1) IN GENERAL.—After January 1, 2000, it shall be unlawful for any oil- and gas-fired utility unit whose average annual fuel consumption, measured in BTU, between 1980 through 1989 on a BTU basis exceeded 90 percent in the form of natural gas to exceed an annual sulfur dioxide emission rate equal to the product of the unit’s baseline multiplied by the unit’s actual 1985 emissions rate divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit’s total annual emissions for a year after 2007, or the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(2) RESERVE ALLOWANCES.—In addition to allowances allocated pursuant to paragraph (1) and those in basic phase I allowance allocations, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances in an amount equal to the unit’s annual average fuel consumption on a BTU basis for 1980 through 1989 multiplied by 0.50 lbs/mmBtu, divided by 2,000.

(3) ADDITIONAL ALLOWANCES.—In addition to allowances allocated pursuant to paragraph (1) and section 412(a), beginning January 1, 2010, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances in an amount equal to the lesser of the unit’s baseline multiplied by 0.50 lbs/mmBtu, divided by 2,000.

(1) UNITS IN HIGH GROWTH STATES.—

(a) IN GENERAL.—After January 1, 2000, the Administrator shall allocate annually for each existing unit subject to the emissions limitation requirements of subsection (b)(1) additional allowances in an amount equal to the difference between the lesser of the actual 1985 sulfur dioxide emission rate divided by 2,000, multiplied by the lesser of the unit’s baseline multiplied by 0.50 lbs/mmBtu, divided by 2,000:

(1) the average annual fuel consumption on a BTU basis for the calendar year 1980 through 1989 of the unit as calculated by the United States Department of Commerce, and

(2) an estimated increase in fuel consumption of more than 30,000,000 kw in 1988, in an amount equal to the difference between:

(i) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of this section, with thermal energy generated by any other unit or units subject to the provisions of this section, with thermal energy generated by any other unit or units subject to the requirements of sections 402 and 410 as basic phase II allowance allocations, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of subsection (b)(1)—

(A) the lesser of whose actual or allowable 1985 emissions rate has declined by 50 percent or more as of November 15, 1990; or

(B) whose actual emissions rate is less than 1.2 lbs/mmBtu as of January 1, 2000;

(ii) the number of allowances allocated pursuant to paragraph (1) reduced, pro rata, the additional allowances allocated to the unit pursuant to meeting the 40,000 allowance restriction during the period 1980 through 1989; and

(iii) the number of allowances allocated for each unit pursuant to the emissions limitation requirements of subsection (b)(1) adjusted to reflect the unit’s annual average fuel consumption on a BTU basis for 1980 through 1989 (inclusive) as elected by the owner or operator; and

(j) CERTAIN MUNICIPALLY OWNED POWER PLANTS.—Beginning January 1, 2000, in addition to allowances allocated pursuant to this section and section 412(a) as basic phase II allowance allocations, the Administrator shall allocate annually for each existing municipally owned oil and gas-fired utility unit with nameplate capacity equal to, or less than, 40 MWe, the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is less than 1.2 lbs/mmBtu, allowances in an amount equal to the product of the unit’s actual annual fuel consumption on a BTU basis at a 60 percent capacity multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2,000.

(2) ALLOWANCES AND PERMITS.—The Administrator shall allocate allowances to units subject to the provisions of this section pursuant to section 414.

SEC. 416. ELECTION FOR ADDITIONAL SOURCES.

(a) APPLICABILITY.—The owner or operator of any unit that is not exempt, an affected unit under section 412(b), 413, or 414, that emits sulfur dioxide, may elect to designate that unit or source to become an affected unit and take any action necessary to comply with this subpart. An election shall be submitted to the Administrator for approval, along with a permit application and proposed compliance plan in accordance with section 414. The Administrator shall approve a designation that meets the requirements of this section, and such designated unit shall be allocated allowances, and an affected unit for purposes of this subpart.

(b) ESTABLISHMENT OF BASELINE.—The baseline for a unit designated under this section shall be established by the Administrator by regulation, based on fuel consumption and operating data for the unit for calendar years 1985, 1986, and 1987, or if such data is not available, the Administrator may prescribe a baseline based on alternative representative data.

(c) EMISSION LIMITATIONS.—

(1) ELECTIONS SUBMITTED BEFORE JANUARY 1, 2002.—For a unit for which an election, along with a permit application and compliance plan is submitted to the Administrator under paragraph (a) before January 1, 2002, annual emissions limitations for sulfur dioxide shall be equal to the product of the baseline multiplied by the lesser of the unit’s 1985 actual or allowable emission rate in lbs/mmBtu, or, if the unit did not operate in 1985, by the lesser of the unit’s actual or allowable emission rate for a calendar year after 1985 as determined by the Administrator; divided by 2,000.

(2) ELECTIONS SUBMITTED AFTER JANUARY 1, 2002.—For a unit for which an election, along with a permit application and compliance plan is submitted to the Administrator under paragraph (a) on or after January 1, 2002, annual emissions limitations for sulfur dioxide shall be equal to the product of the baseline multiplied by the lesser of the unit’s 1985 actual or allowable emission rate in lbs/mmBtu, or, if the unit did not operate in 1985, by the lesser of the unit’s actual or allowable emission rate for a calendar year after 1985 as determined by the Administrator; divided by 2,000.

(d) ALLOWANCES AND PERMITS.—The Administrator shall issue allowances to an affected unit under this section in an amount equal to the emissions rate calculated under subsection (c), in accordance with section 412. Such allowance may be used in accordance with, and shall be subject to, the provisions of section 414. Such sources under this section shall be subject to the requirements of sections 404, 405, 406, and 412.

(e) LIMITATION.—Any unit designated under this section shall not transfer or bank allowances produced as a result of reduced utilization or shutdown, except that, such allowances may be transferred or carried forward for use in subsequent years to the extent that the reduced utilization or shutdown results from the replacement of thermal energy from the unit designated under this subsection, with the additional energy generated by any other unit or units subject to the requirements of this subpart, and the designated unit’s allowances are transferred or moved forward for use in subsequent years by any other unit or units subject to the requirements of this subpart, and the designated unit’s allowances are transferred or moved forward for use in subsequent years by any other unit or units.

(2) After January 1, 2010, the Administrator shall allocate allowances to units subject to the provisions of this section pursuant to section 414.
allowances shall authorize operation of a unit in violation of any other requirements of this Act.

(1) IMPLEMENTATION.—The Administrator shall promulgate regulations under this section no later than April 1, 2002, as amended as appropriate by the Administrator.

(a) SPECIAL RESERVE OF ALLOWANCES.—For purposes of establishing the Special Allowance Reserve, the Administrator shall withhold—

(1) 2.8 percent of the allocation of allowances for each year from 1995 through 1999 inclusive; and

(2) 6 percent of the total phase I allowance allocation of allowances for each year beginning in the year 2000.

which would (but for this subsection) be issued for each affected unit at an affected source. The Administrator shall record such withholding for purposes of transferring the proceeds of the allowances sales under this subsection. The allowances so withheld shall be deposited in the Reserve under this section.

(b) AUCTION SALES.—The Administrator shall establish an Auction Subaccount in the Special Reserve established under this section. The Auction Subaccount shall be used to sell allowances to be sold at auction under this section in the amount of 150,000 tons per year for each year from 1995 through 1999, inclusive, and 250,000 tons per year for each year from 2000 through 2005, inclusive.

(2) ANNUAL AUCTIONS.—Commencing in 1996 and in each year thereafter until 2010, the Administrator shall conduct auctions at which the allowances referred to in paragraph (1) shall be offered for sale in accordance with regulations promulgated by the Administrator. Such regulations shall specify which allowances referred to in paragraph (1) shall be offered for sale at auction in the amounts specified in table C. The auction shall be open to any person. A person wishing to bid for such allowances shall submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) offers to purchase specified numbers of allowances at specified prices. Such regulations shall specify that the auctioned allowances shall be allocated and sold on the basis of bid price, starting with the highest-priced bid and continuing until all allowances for sale at such auction have been allocated. The regulations shall not permit that a minimum price be set for the purchase of witheld allowances. Allowances purchased at the auction may be used for any purpose and at any time after the auction, subject to the provisions of this subpart and subpart 2.

<table>
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<tr>
<th>Year of sale</th>
<th>Spot auction (same year)</th>
<th>Advance auction</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993</td>
<td>50,000</td>
<td>100,000</td>
</tr>
<tr>
<td>1994</td>
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<td>125,000</td>
<td>250,000</td>
</tr>
<tr>
<td>2004-2009</td>
<td>175,000</td>
<td>350,000</td>
</tr>
</tbody>
</table>

(3) PROCEEDS.—

(A) TRANSFER.—Withholding notwithstanding section 3002 of title 31 of the United States Code or any other provision of law, within 90 days of receipt, the Administrator shall transfer the proceeds from the auction under this section, on a pro rata basis, to the owners or opera-
percent of the unit’s total heat input, and combusting no coal or coal-derived fuel, in any year during 1998 through 2002, or for a unit that commenced operation on or after January 1, 2003, a unit designed to burn coal or coal-derived fuel for more than 10 percent of the unit’s total heat input and not to combust any coal or coal-derived fuel.

(6) Under no circumstances—The term ‘unit account’ means an account in the Allowance Tracking System under section 403(c) established by the Administrator for any unit under subparagraph (A) that commenced operation on or after January 1, 2001, a unit that did not receive sulfur dioxide allowances under subparagraph 1 of this title.

(7) The Administrator shall allocate each year for units under subparagraph (A) that commenced operation before January 1, 2001, an amount of sulfur dioxide allowances determined by:

(i) For such units at the facility that are coal-fired, multiplying 0.40 lb/mmBtu by the total baseline heat input of such units and converting to tons.

(ii) For such units at the facility that are oil-fired, multiplying 0.20 lb/mmBtu by the total baseline heat input of such units and converting to tons.

(iii) For all such other units at the facility that are not covered by clause (i) or (ii), multiplying 0.05 lb/mmBtu by the total baseline heat input of such units and converting to tons.

(iv) If the total of the amounts of all capacities under clauses (i), (ii), and (iii) exceeds the allocation amount under subparagraph (A), multiplying the allocation amount under subparagraph (A) by the ratio of the total of the amounts for the facility under clauses (i), (ii), and (iii) to the total of the amounts for all facilities under clause (i), (ii), and (iii).

(v) Allocating to each facility the lesser of the total of the amounts for the facility under clauses (i), (ii), and (iii) or, if the total of the amounts for all facilities under clauses (i), (ii), and (iii) exceeds the allocation amount under subparagraph (A), the amount under clause (iv).

(vi) The Administrator shall allocate each year for units under subparagraph (A) that commence commercial operation on or after January 1, 2001 and January 1, 2005, an amount of sulfur dioxide allowances determined by:

(i) For such units at the facility that are coal-fired or oil-fired, multiplying 0.19 lb/mmBtu by the total baseline heat input of such units.

(ii) For all such other units at the facility that are not covered by clause (i), multiplying 0.05 lb/mmBtu by the total baseline heat input of such units and converting to tons.

(iii) If the total of the amounts for all capacities under clauses (i) and (ii) exceeds the allocation amount under subparagraph (A), multiplying the allocation amount under subparagraph (A) by the ratio of the total of the amounts for the facility under clauses (i) and (ii) to the total of the amounts for all capacities under clauses (i) and (ii).

(iv) Allocating to each facility the lesser of the total of the amounts for the facility under clauses (i) and (ii) or, if the total of the amounts for all capacities under clauses (i) and (ii) exceeds the allocation amount under subparagraph (A), the amount under clause (iv).

(v) The Administrator shall allocate to the facilities under paragraph (1) and (iv) this paragraph on a pro rata basis (based on the allocations under those paragraphs) any allowances not allocated under this subparagraph.

(vi) The Administrator shall allocate each year for units under subparagraph (A) that are not fuel- or technology-related facilities under subparagraph (D), an amount under subparagraph (A) determined by:

(a) Allocating to each facility the lesser of the total of the amounts for the facility under clauses (i), (ii), and (iii) or, if the total of the amounts for all facilities under clauses (i), (ii), and (iii) exceeds the allocation amount under subparagraph (A), the amount under clause (iv).

(b) Allocating to each facility the lesser of the total of the amounts for the facility under clauses (i) and (ii) or, if the total of the amounts for all capacities under clauses (i) and (ii) exceeds the allocation amount under subparagraph (A), the amount under clause (iv).

(c) Allocating to the facilities under paragraph (1) and (iv) this paragraph on a pro rata basis (based on the allocations under those paragraphs) any allowances not allocated under this subparagraph.

(d) The Administrator shall allocate each year for units under subparagraph (A) that are fuel- or technology-related facilities under subparagraph (D), an amount under subparagraph (A) determined by:

(i) Allocating to each facility the lesser of the total of the amounts for the facility under clauses (i), (ii), and (iii) or, if the total of the amounts for all capacities under clauses (i), (ii), and (iii) exceeds the allocation amount under subparagraph (A), the amount under clause (iv).

(ii) Multiplying the total amount of allowances allocated to each facility in the previous year by 93 percent.

(iii) If the total of the amounts allocated to all facilities under subparagraph (A) exceeds the allocation amount under subparagraph (B), the amount under subparagraph (B) and converting to tons.

(2) Failure to promulgate—(A) Annual notice.—For each year 2010 and thereafter, if the Administrator has not promulgated regulations, determining allocations under subsection (a), each affected EGU shall comply with section 422 by providing annual notice to the permitting authority. Such notice shall indicate the amount of allowances the affected EGU believes it has for the relevant year and the total amount of sulfur dioxide emissions for the relevant year. The amount of sulfur dioxide emissions shall be determined using reasonable industry recognized methods. The Administrator shall promulgate applicable monitoring and alternative monitoring requirements.

(B) Reconciliation.—Upon promulgation of regulations under subsection (a) determining the allocations for 2010 and thereafter, and promulgating regulations under section 403(b) providing for the allocation of sulfur dioxides and section 403(c) establishing an Allowance Transfer System for sulfur dioxide allowances, each unit’s emissions shall be compared to and reconciled to its actual allocations under the promulgated regulations. Each unit shall have nine (9) months to purchase any allowance shortfall through allowances purchased from other allowance holders or through direct sale.

(3) Disposition of sulfur dioxide allowances allocated under subparagraph 1—(A) Removal from accounts.—After allocating allowances under section 422(a)(1), the Administrator shall transfer any unit accounts and general accounts in the Allowance Tracking System under section 403(c) and from the Special Allowances Reserve under section 418 to individual accounts. The Administrator shall promulgate regulations as necessary to assure that the requirement to hold allowances under section 422 may be met using sulfur dioxide allowances allocated under subparagraph (A) for 1995 through 2009. No part of this Act shall be construed to prohibit use of unused pre-2010 allowances to meet the requirements under section 422.

(B) Incentives for sulfur dioxide emission control technology.—(a) Reserve.—The Administrator shall establish a reserve under section 424(b)(1) comprising sulfur dioxide allowances consisting of 83,333 sulfur dioxide allowances for 2010, 83,333 sulfur dioxide allowances for 2011, and 83,333 sulfur dioxide allowances for 2012.

(b) Application.—Not later than 18 months after the enactment of the Clear Skies Act of 2005, an owner or operator of an affected unit that commenced operation before 2001 and that during 2001 combusted Eastern bituminous may submit an application to the Administrator for sulfur dioxide allowances to be added to the reserve under subsection (a). The application shall include each of the following:
‘(1) A statement that the owner or operator will install and commence commercial operation of specified sulfur dioxide control technology at the unit within 24 months after the date of receipt of the application under subsection (c) if the unit is allocated the sulfur dioxide allowances requested under paragraph (4). The owner or operator shall provide control technology within 24 months after the date of receipt of the application under subsection (c) and shall maintain the compliance with the requirements of section 422, for the units for which applications are approved under subsection (c), the Administrator shall allocate sulfur dioxide allowances as follows: ‘(1) For each unit, the Administrator shall multiply the allowance-to-emission-reduction ratio determined under paragraph (2) by the ratio of the amount of sulfur dioxide allowances determined under subsection (a) or the Administrator approved under subsection (c) by the lesser of— ‘(A) the total tonnage of sulfur dioxide emissions reductions achieved by that unit during the period starting with the commencement of operation of the sulfur dioxide control technology under subparagraph (b)(1) through 2009, through use of such control technology; or ‘(B) the tonnage of sulfur dioxide emission reductions under paragraph (2). ‘(2) If the total amount of sulfur dioxide allowances determined for all units under paragraph (1) exceeds 250,000 sulfur dioxide allowances, the Administrator shall multiply 250,000 sulfur dioxide allowances by the ratio of the amount of sulfur dioxide allowances determined for each unit under paragraph (1) to the total amount of sulfur dioxide allowances determined for all units under paragraph (1). ‘(3) The Administrator shall allocate for each covered year the lesser of the amount determined for that unit under paragraph (1) or, if the total amount of sulfur dioxide allowances determined for all units under paragraph (1) exceeds 250,000 sulfur dioxide allowances under paragraph (2). The Administrator shall allocate for each covered year the lesser of the amount of sulfur dioxide allowances determined for each unit under paragraph (1) to the total amount of sulfur dioxide allowances determined for all units under paragraph (1). ‘(4) The Administrator shall allocate for each covered year the lesser of the amount of sulfur dioxide allowances determined for each unit under paragraph (1) or, if the total amount of sulfur dioxide allowances determined for all units under paragraph (1) exceeds 250,000 sulfur dioxide allowances under paragraph (2), the Administrator shall allocate sulfur dioxide allowances on a pro rata basis among all EGUs for which applications were approved under paragraphs (a) and (b) of this section and disqualified EGUs for which applications were approved under subparagraph (A) of this section for each covered year. ‘(5) The term ‘oil-fired’ with regard to a unit means, for purposes of section 433, a unit combusting fuel oil for more than 10 percent of the unit’s total heat input, and combusting no coal or coal-derived fuel, and any year during the period from the eighth through the fourth year before the first covered year. ‘(6) WRAP State.—The term ‘WRAP State’ means Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Wyoming.'
for any type of utility boiler if the Administrator finds that the maximum listed rate for that boiler type cannot be achieved using low NOx burner technology. The Administrator shall establish an emission limitation under section 40 CFR part 76.5 (2002). The maximum allowable emission rates are as follows:

(A) for tangentially fired boilers, 0.45 lb/mmBtu averaged for a period of 15 months (or such other period as the Administrator determines by regulation); and

(B) for dry bottom wall-fired boilers (other than units applying cell burner technology), 0.50 lb/mmBtu. After January 1, 1996, for a unit that is an affected unit on that date and is of the type listed in this paragraph to emit nitrogen oxides in excess of the emission rates set pursuant to subsection (h)(1), the Administrator pursuant to this paragraph.

(2) UTILITY BOILERS. — The Administrator shall, by regulation, establish allowable emission limitations on a lb/mmBtu, annual average basis, for nitrogen oxides for the following types of utility boilers:

(A) wet bottom wall-fired boilers;

(B) cyclones;

(C) units applying cell burner technology; and

(D) all other types of utility boilers.

(3) BASIS OF RATES. — The Administrator shall base such rates on the degree of reduction achievable through the retrofit application of the best system of continuous emission reduction technology, costs and energy and environmental impacts; and which is comparable to the costs of nitrogen oxides controls set pursuant to subsection (h)(1). The Administrator may revise the applicable emission limitations for tangentially fired and dry bottom, wall-fired boilers (other than cell burners) to be more stringent if the Administrator determines that more effective low NOx burned technology is available; Provided, That, no unit that is an affected unit pursuant to section 413(d), (1) and (2) on and after April 1, 2002 during 2002 and each year thereafter; and

(2) OPERATING PERMITS. — If the permitting authority determines, in accordance with the conditions specified in the Clear Skies Act of 2005, a unit in a cogeneration facility that is less than; or equal to

(A) the annual actual emission rate in pounds of nitrogen oxides per million Btu averaged over the units in question is a rate that is less than; or equal to

(B) the Btu-weighted average annual emission rate for the facility that is lower than; or equal to

(2) EXEMPTIONS AVERAGING. —

(1) ALTERNATIVE CONTEMPORANEOUS EMISSION LIMITATIONS. — In lieu of complying with the applicable emission limitations under subsection (b)(1), (2), or (c), the owner or operator of two or more units subject to one or more of the applicable emission limitations set pursuant to these sections, may petition the permitting authority for alternative contemporaneous annual emission limitations for such units that ensure that:

(A) the annual actual emission rate in pounds of nitrogen oxides per million Btu averaged over the units in question is a rate that is less than; or equal to

(B) the Btu-weighted average annual emission rate for the facility that is lower than; or equal to

(2) OPERATING PERMITS. — If the permitting authority determines, in accordance with the conditions specified in the Clear Skies Act of 2005, a unit in a cogeneration facility...

SEC. 442. TERMINATION. —

Starting January 1, 2008, the owner or operator of affected units and affected facilities in compliance with section 413(d), (1) and (2) on and after April 1, 2002 during 2002 and each year thereafter, except for a cogeneration unit that meets the criteria for qualifying for a cogeneration facilities codified in section 292.205 of the Code of Federal Regulations as issued on April 1, 2002 during 2002 and each year thereafter; and

(2) for a unit commencing service of a gas-fired unit serving electricity for sale during any year starting with the date of enactment of the Clear Skies Act of 2005, a unit in a State serving a generator that produces electricity for sale during any year starting with the date of enactment of the Clear Skies Act of 2005.
(A) **ZONE 1 PROHIBITION.**—

(1) **IN GENERAL.**—Starting January 1, 2008, it shall be unlawful for the affected EGUs at a facility in a Zone 1 State to emit a total amount of nitrogen oxides during a year in excess of the number of nitrogen oxides allowances for that year by the owner or operator of the facility.

(2) **LIMITATION.**—Only nitrogen oxides allowances under section 453(a) shall be held in order to meet the requirements of paragraph (1), except as provided under section 465.

**SCC. 453. LIMITATIONS ON EMISSIONS.**

(a) **ZONE 1 ALLOCATIONS.**—For affected EGUs in the Zone 1 States for 2008 and each year thereafter, the Administrator shall allocate nitrogen oxides allowances under section 453(a) as specified in table A.

**TABLE A—TOTAL NO\textsubscript{X} ALLOWANCES ALLOCATED FOR EGUS IN ZONE 1**

<table>
<thead>
<tr>
<th>Year</th>
<th>NO\textsubscript{X} allowances allocated</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008-2017</td>
<td>........................................</td>
</tr>
<tr>
<td>2018 and thereafter</td>
<td>...............................</td>
</tr>
</tbody>
</table>

(b) **ZONE 2 ALLOCATIONS.**—For affected EGUs in the Zone 2 States for 2008 and each year thereafter, the Administrator shall allocate nitrogen oxides allowances under section 453(b) as specified in table B.

**TABLE B—TOTAL NO\textsubscript{X} ALLOWANCES ALLOCATED FOR EGUS IN ZONE 2**

<table>
<thead>
<tr>
<th>Year</th>
<th>NO\textsubscript{X} allowances allocated</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>........................................</td>
</tr>
</tbody>
</table>

**SCC. 454. EGU ALLOCATIONS.**

(a) **EGU ALLOCATIONS IN THE ZONE 1 STATES.**

(i) **EPA regulations.**—Not later than 18 months before the start of any program to allocate nitrogen oxides allowances under the Federal NO\textsubscript{X} Budget Trading Program as codified at 40 CFR part 97 (2002), or any State program adopted to meet the requirements of the NO\textsubscript{X} SIP Call as codified at 40 CFR 51.121 (2002), shall be in accordance with this section.

(ii) **ADDITIONAL ALLOWANCES.**—Any nitrogen oxide allowances remaining after the allocation of allowances under subpart (B) shall be distributed on a pro rata basis among the units that received nitrogen oxide allowances under that subpart.

(b) **ZONE 2 PROHIBITION.**—

(1) **IN GENERAL.**—Starting January 1, 2008, it shall be unlawful for the affected EGUs at a facility in a Zone 2 State to emit a total amount of nitrogen oxides during a year in excess of the number of nitrogen oxides allowances for that year by the owner or operator of the facility.

(2) **LIMITATION.**—Only nitrogen oxides allowances under section 453(a) shall be held in order to meet the requirements of paragraph (1), except as provided under section 465.

(3) **DISTRIBUTION OF REMAINING ALLOWANCES.**—

(i) **EPA regulations.**—Not later than 18 months before the start of any program to allocate nitrogen oxides allowances under the Federal NO\textsubscript{X} Budget Trading Program as codified at 40 CFR part 97 (2002), or any State program adopted to meet the requirements of the NO\textsubscript{X} SIP Call as codified at 40 CFR 51.121 (2002), shall be in accordance with this section.

(ii) **ADDITIONAL ALLOWANCES.**—Any nitrogen oxide allowances remaining after the allocation of allowances under subpart (B) shall be distributed on a pro rata basis among the units that received nitrogen oxide allowances under that subpart.

(c) **ZONE 2 ALLOCATIONS.**—For affected EGUs in the Zone 2 States for 2008 and each year thereafter, the Administrator shall allocate nitrogen oxides allowances under section 453(b) as specified in table B.
consistent with this Act, including direct sale).

"(b) EGU ALLOWANCES IN THE ZONE 2 STATES.

"(1) EPA REGULATIONS.—Not later than 18 months before the date on which the nitrogen oxide emissions requirement under section 452(b) takes effect, the Administrator shall promulgate regulations determining the allocation of nitrogen oxide allowances for 2008 and each subsequent year for units at a facility in a Zone 2 State that are affected EGUs as of the date of enactment of this section.

"(2) FORMULA FOR ALLOCATION.

"(A) IN GENERAL.—Subject to subparagraph (B) and paragraph (3), the regulations shall specify that the allocation of nitrogen oxide allowances for each unit referred to in paragraph (1) for each year shall be the product obtained by multiplying—

"(i) the product of 0.95 and the allocation amount under section 453(b); and

"(ii) the ratio that—

"(I) the total quantity of the adjusted baseline heat input of the units at the facility; bears to

"(II) the total quantity of adjusted baseline heat input to all affected EGUs in the Zone 2 States.

"(B) MAXIMUM ALLOCATION.—Notwithstanding paragraph (1) and paragraph (3), no unit shall receive an allocation in excess of the product obtained by multiplying—

"(i) the baseline heat input of the unit; and

"(ii) the quotient obtained by dividing the allowable nitrogen oxide emissions rate of the unit by 200.

"(C) DISTRIBUTION OF REMAINING ALLOWANCES.

"(A) IN GENERAL.—Subject to paragraph (2)(B), any nitrogen oxide allowances remaining after the allocation of allowances under paragraph (1) shall be distributed on a pro rata basis among the units that received nitrogen oxide allowances under that paragraph.

"(B) ADDITIONAL REMAINING ALLOWANCES.—Allowances remaining after each iteration of the calculation under subparagraph (A) as a result of the allocation under paragraph (2)(B) shall be allocated in accordance with subparagraph (A).

"(4) SET-ASIDE FOR NEW UNITS.—

"(A) IN GENERAL.—Notwithstanding paragraph (2)(B) and paragraph (3), the regulations promulgated under paragraph (1) shall specify that the allocation of nitrogen oxide allowances for each unit referred to in subparagraph (A) for each year shall be the product obtained by multiplying—

"(I) the product of 0.05 and the allocation amount under section 453(a); and

"(II) the ratio that—

"(aa) the total quantity of the adjusted baseline heat input of the units at the facility; bears to

"(bb) the total quantity of adjusted baseline heat input to all affected EGUs in the Zone 2 States, including those affected EGUs that receive allowances under paragraph (2).

"(B) FORMULA FOR ALLOCATION.

"(1) IN GENERAL.—Subject to clause (i) and subparagraph (E), the regulations promulgated under paragraph (1) shall specify that the allocation of nitrogen oxide allowances for each unit referred to in subparagraph (A) for each year shall be the product obtained by multiplying—

"(I) the product of 0.95 and the allocation amount under section 453(a); and

"(II) the quotient obtained by dividing the allowable nitrogen oxide emissions rate of the unit by 200.

"(C) METHOD OF ALLOCATION.—Allowances allocated under this paragraph shall be allo-

"cated to each unit on a first-come basis de-


"(D) NO REDUCTION IN ALLOWANCES.—Allo-


"cations to any unit under paragraph 3 shall not be reduced as a result of new units commencing commercial operation.

"(E) DISTRIBUTION OF REMAINING ALLOW-


"ANCES.—Allowances remaining after the allocation of allowances under subparagraph (B) shall be distributed on a pro rata basis among the units that received nitrogen oxide allowances under that subparagraph and paragraphs (2) and (3).

"(F) FAILURE TO PROMULGATE REGU-


"LATIONS UNDER THIS SUBSECTION.—If the Administrator has not promulgated the regulations determining the allocations under this subsection—

"(A) each affected unit shall comply with section 452 by providing an annual notice to the permitting authority that indicates the amount of allowances the affected unit believes the affected unit has for the relevant year (including the quantity of nitrogen oxide emissions of the affected unit for that year);

"(B) the amount of nitrogen oxide emissions of an affected unit described in subparagraph (A) shall be determined using reasonable industry accepted methods unless the Administrator has promulgated applicable monitoring and alternative monitoring requirements; and

"(C) upon promulgation of regulations under this subsection for Zone 2 determining the allocations for 2008 and each year thereafter, if the Administrator has not promulgated the regulations determining the allocation of allowances for 2008 and each year thereafter, the allocations for 2008 and each year thereafter shall be allocated in an amount equal to one allowance of nitrogen oxide for each 1.05 tons of emissions of nitrogen oxide achieved by the pollution control equipment or combustion technology improvements starting with the date on which the equipment or improvement is implemented. The early compliance reduc-


"(G) EARLY COMPLIANCE ALLOWANCE CRED-


"IT.—The Administrator shall promulgate regulations as necessary to ensure affected units receive early compliance allowance credit. Early compliance allowances shall be allocated at the end of an early compliance year. Should the Administrator fail to promulgate allocation regulations by the end of a given year, early compliance allowances for each year shall be allocated at the ear-


"(H) EXCEPTION.—This section shall not apply to reductions that are—

"(1) made during the period beginning on May 1 and ending on September 30 of any year by units that are subject to an applicable implementa-


"tion plan for a NOx SIP Call State (as defined in section 461(3)) required under section 51.121 of title 40, Code of Federal Regu-


"lations (as in effect for calendar year 2004); or

"(2) necessary to comply with subpart 1 of part C for the applicable subpart C Budget


"Program.

"SEC. 461. DEFINITIONS.

"For purposes of this subpart:

"(1) OZONE SEASON.—The term ‘ozone sea-


"son’ means—

"(A) with regard to Connecticut, Delaware, the District of Columbia, Maryland, Massa-


"chusetts, New Jersey, New York, Pennsyl-


"vania, and Rhode Island, the period May 1 through September 30 for each year starting in 2003; and

"(B) with regard to all other States, the period May 1 through September 30 for each year starting in 2004 and thereafter.

"(2) NON-OZONE SEASON.—The term ‘non- 


"ozone season’ means—

"(A) with regard to Connecticut, Delaware, the District of Columbia, Maryland, Massa-


"chusetts, New Jersey, New York, Pennsyl-


"vania, and Rhode Island, the period October 1 through April 30; and

"(B) with regard to all other States, the period October 1, 2003, through May 30, 2004 and the period October 1 through April 30 be-


"ginning in the year 2004 and for each year thereafter.

"(3) NOx SIP call state.—The term ‘NOx SIP Call State’ means Connecticut, Delaware, the District of Columbia, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and the fine grid portions of Alabama, Georgia, Michigan, and Missouri.

"(4) FINE GRID PORTIONS OF ALABAMA, GEORGIA, MICHIGAN, AND MISSOURI.—The term ‘fine grid portions of Alabama, Georgia, Michigan, and Missouri’ means the areas in Alabama, Georgia, Michigan, and Missouri subject to 40 CFR part 93.

"SEC. 462. GENERAL PROVISIONS.

"The provisions of sections 402 through 406 shall not apply to this subpart.
SEC. 463. APPLICABLE IMPLEMENTATION PLAN.

(A) The owners and operators of a boiler, combustion turbine, or integrated gasification combined cycle plant subject to emission reduction requirements or limitations under part B, C, or D shall no longer be subject to the requirements of section 463(a) and (b)(1).

(B) Notwithstanding any provision to the contrary in section 4121 or 5122 of title 40, Code of Federal Regulations (as in effect for calendar year 2004):

(1) IMPLEMENTATION PLAN.—The applicable implementation plan for each NOX SIP Call State shall be the full implementation of the required emission control measures starting no later than the first ozone season.

(2) EXEMPTION.—Starting January 1, 2008:

(A) the owners and operators of a boiler, combustion turbine, or integrated gasification combined cycle plant subject to emission reduction requirements or limitations under part B, C, or D shall no longer be subject to the requirements in a NOX SIP Call State’s applicable implementation plan that meet the requirements of subsection (a) and paragraph (1); and

(B) notwithstanding subparagraph (A), if the Administrator determines, by December 31, 2007, that the applicable implementation plan meets the requirements of subsection (a) and paragraph (1), such applicable implementation plan shall be deemed to continue to meet such requirements.

(c) SAVINGS PROVISION.—Nothing in this section or section 464 shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, limitation, or standard, relating to a boiler, combustion turbine, or integrated gasification combined cycle plant subject to emission reduction requirements or limitations under part B, C, or D, that is more stringent than a regulation, requirement, limitation, or standard in effect under this section or under any other provision of this Act.

SEC. 464. TERMINATION OF FEDERAL ADMINISTRATION OF NOx TRADING PROGRAM FOR EGUS.

Starting January 1, 2008, with regard to any coal-fired unit, combustion turbine, or integrated gasification combined cycle plant subject to emission reduction requirements or limitations under part B, C, or D, the Administrator shall not administer any nitrogen oxides trading program included in any NOX SIP Call State’s applicable implementation plan and meeting the requirements of section 463(a) and (b)(1).

SEC. 465. CARRYFORWARD OF PRE-2008 NITROGEN OXIDES ALLOWANCES.

The Administrator shall promulgate regulations as necessary to assure that the requirement for allowances under section 452(a)(1) may be met using nitrogen oxides allowances allocated for an ozone season before 2008 under a nitrogen oxides trading program that the Administrator administers, is included in a NOX SIP Call State’s applicable implementation plan, and meets the requirements of section 463 (a) and (b)(1).

SEC. 466. NON-ZONE SEASON VOLUNTARY ACTION CREDITS.

An affected facility that voluntarily elects to operate select catalytic reduction devices, as defined in paragraph (1) of the definition of "this Act", during the non-ozone season under section 461(2) shall be credited 0.5 allowances per ton of NOX emissions avoided as a result of installing these controls. The amount avoided will equal every ton of nitrogen oxides reduction below the allowable emission rate. The Administrator shall determine if any other existing NOX emission control devices are generally uneconomic to operate unless EGUs are provided incentives to do so. The Administrator shall specify these types of control devices and, for an affected facility with these specified devices, installed prior to enactment of this title, that voluntarily elects to operate these devices during the non-ozone season under section 461(2) shall be credited 0.5 allowances per ton of emissions avoided as a result of the operation of these devices during the non-ozone season.

(2) EXCLUSION.—Notwithstanding paragraphs (A) and (B), the term ‘affected EGU’ does not include:

(i) a solid waste incineration unit subject to section 129;

(ii) a unit for the treatment, storage, or disposal of hazardous waste subject to section 3005 of the Solid Waste Disposal Act; or

(iii) a unit with de minimis emissions equal to or less than 50 pounds on an average annual basis, as calculated by the Administrator for a 3-year period using:

(I) for calendar year 2010, the emissions data for a facility for calendar years 2006 through 2009; and

(II) for calendar year 2011 and subsequent calendar years, the 3 most recent calendar years for which emissions data are available.

SEC. 472. APPLICABILITY.

Starting January 1, 2010, it shall be unlawful for the affected EGUs at a facility in a State to emit a total amount of mercury allowances during the year in excess of the number of mercury allowances held for such facility for that year by the owner or operator of the facility.

SEC. 473. LIMITATIONS ON TOTAL EMISSIONS.

For affected EGUs for 2010 and each year thereafter, the Administrator shall allocate mercury allowances pursuant to section 474.

TABLE A.—TOTAL MERCURY ALLOWANCES ALLOCATED FOR EGUS

<table>
<thead>
<tr>
<th>Year</th>
<th>Mercury allowances allocated</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-2015</td>
<td>1,088,000</td>
</tr>
<tr>
<td>2016 and thereafter</td>
<td>480,000</td>
</tr>
</tbody>
</table>

SEC. 474. EGU ALLOCATIONS.

(a) IN GENERAL.—Not later than 24 months before the commencement date of the mercury allowance requirement of section 472, the Administrator shall promulgate regulations determining allocations of mercury allowances for 2010 and thereafter for units under subsection (b) with respect to commercial operation.

These units shall be allocated allowances for each year by multiplying the allocation amount under section 473 by the ratio of the total amount of the adjusted baseline heat input of such units at the facility to the total amount of adjusted baseline heat input of all affected EGUs.

(b) NEW FACILITIES.—5 percent of the total amount of nitrogen oxides allowances allocated each year under section 473 shall be allocated for units at a facility that commence commercial operation and are affected EGUs after the date of enactment. The Administrator shall allocate each year for such units an amount determined by multiplying by 0.95 the allocation amount in section 473 by the ratio of the total amount of the adjusted baseline heat input of such units at the facility to the total amount of adjusted baseline heat input to all affected EGUs.

(c) ALLOCATION.—Allocations under section 473, shall be allocated to units on a first come basis determined by date of unit commencement of construction, provided that such unit actually commences commercial operation. As such, allocations to units under subsection (b) will not be reduced as a result of new units commencing commercial operation.

(d) UNALLOCATED ALLOWANCES.—Allocations not allocated under paragraph (2) shall be allocated to units in subsection (a) and (b) on a pro rata basis.

SEC. 480. ABSENEC Q.
determining allocation under subsection (a).

(1) each affected unit shall comply with section 472 by providing annual notice to the permitting authority or other such notice as otherwise provided for in this section and shall calculate the amount of allowances the affected unit believes it has for the relevant year and the amount of mercury emissions for such year. The amount of mercury emissions shall be determined using reasonable industry accepted methods unless the Administrator has promulgated applicable monitoring and alternative monitoring requirements; and

(2) upon promulgation of regulations under subsection (a) determining the allocations for 2010 and thereafter, and promulgating regulations under section 403(c) providing for the transfer of mercury allowances and section 403(c) establishing an Allowance Transfer System for mercury allowances, each unit’s emissions shall be compared to and reconcile with its actual allocations under the promulgated regulation. Each unit will have nine (9) months to submit allowances to the Administrator, without compensation, for any allowances shortfall. The submitted allowances may have been obtained and held by any mechanism consistent with the Act including, but not limited to, direct sale.

SEC. 475. MERCURY EARLY ACTION REDUCTION CREDITS

(a) IN GENERAL.—The Administrator shall promulgate regulations within 18 months authorizing the allocation of mercury allowances to specified units under this section that install or modify pollution control equipment or combustion technology improvements identified in such regulations after the date of enactment of this section and prior to January 1, 2010.

(b) NONALLOCATION OF ALLOWANCES.—No allowances shall be allocated under this paragraph for emissions reductions attributable to pollution control equipment or combustion technology improvements identified in such regulations after the date of enactment of this section and prior to January 1, 2010.

(c) ALLOCATIONS.—The allowances allocated to any unit under this paragraph shall be in addition to the allowances allocated under subsection 474 and shall be allocated at the end of an early compliance year. Should the Administrator fail to promulgate allocation regulations by the end of a given year, early compliance allowances for each year shall be allocated at the earliest possible time after allocation regulations are promulgated.

PART E—NATIONAL EMISSION STANDARDS; RESEARCH, ENVIRONMENTAL ACCOUNTABILITY; MAJOR SOURCE PRECONSTRUCTION REVIEW AND BEST AVAILABLE RETROFIT CONTROL TECHNOLOGY

SEC. 481. NATIONAL EMISSION STANDARDS FOR AFFECTED UNITS

(a) DEFINITIONS.—For purposes of this section:

(1) COMMENCED.—The term ‘‘commenced’’, with regard to construction, means that an owner or operator has either undertaken a continuous program of construction or has entered into a contractual obligation to undertake and complete, within a reasonable period of time, the requirements for any period of time for which the Administrator determines that CEMS with appropriate vendor guarantees are not commercially available for particular permitted equipment.

(2) PROMULGATE REGULATIONS WITHIN 18 MONTHS. The Administrator shall promulgate regulations within 18 months after the date of enactment of this section. Such notice as otherwise provided for in this section shall be given to the affected unit prior to January 1, 2010.

(3) OCCURANCE. The term ‘‘occurrence’’ means any affected unit that is not a new affected unit.

(4) EXISTING OCCURANCE. The term ‘‘existing occurrence’’ means an affected unit that is not a new affected unit.

(5) NEW OCCURANCE. The term ‘‘new occurrence’’ means any affected unit, the construction or reconstruction of which is commenced after the date of enactment of the Clean Air Act Amendments of 2009, that except for the purpose of any revision of a standard pursuant to subsection (e), is new construction and is not an affected unit under the promulgated regulation. Each unit shall, by regulation, require the owner or operator of any affected unit under this paragraph to secure the amount of allowances the affected unit believes it has for the relevant year and the amount of mercury emissions for such year. The amount of mercury emissions shall be determined using reasonable industry accepted methods unless the Administrator has promulgated applicable monitoring and alternative monitoring requirements; and

(6) PROMULGATION.—The term ‘‘promulgation’’ means the replacement of components of a unit under an extent that

(A) the fixed capital cost of the new components is less than 50 percent of the fixed capital cost that would be required to construct a comparable component of a new unit; and

(B) it is technologically and economically feasible to meet the applicable standards set forth in this section.

(b) EMISSION STANDARDS.—

(1) IN GENERAL.—No later than 12 months after the date of enactment of the Clean Air Act Amendments of 2009, the Administrator shall promulgate regulations establishing the standards in subsection (c) through (d) for the specified affected units and establishing requirements to ensure compliance with these standards, including monitoring, record keeping, and reporting requirements.

(2) MONITORING.—

(A) IN GENERAL.—The owner or operator of any affected unit subject to the standards for sulfur dioxide, nitrogen oxides, or mercury under this section shall meet the requirements of section 405, except that, where two or more units utilize a single stack, separate monitoring shall be required for each affected unit for the pollutants for which the unit is subject to such standards.

(B) REGULATIONS.—The Administrator shall, by regulation, require—

(i) the owner or operator of any affected unit subject to the standards for sulfur dioxide, nitrogen oxides, or mercury under this section to—

(I) install and operate CEMS for monitoring output, including electricity and useful thermal energy, on the affected unit and to quality assure the data; and

(II) comply with recordkeeping and reporting requirements, including provisions for reporting output data in megawatt hours;

(ii) the owner or operator of any affected unit subject to the standards for particulate matter under this section to—

(I) install and operate CEMS for monitoring particulate matter on the affected unit and to quality assure the data; and

(III) comply with recordkeeping and reporting requirements; and

(III) comply with alternative monitoring, quality assurance, recordkeeping, and reporting requirements for any period of time for which the Administrator determines that CEMS with appropriate vendor guarantees are not commercially available for particular permitted equipment.

(4) COMPLIANCE.—For boilers, integrated gasification combined cycle plants, and coal fired or gas-fired combustion turbines the Administrator shall require that the owner or operator demonstrate compliance with the standards daily, using a 30-day rolling average except that for mercury, the compliance period shall be the calendar year. For combustion turbines that are oil-fired the Administrator shall require that the owner or operator demonstrate compliance with the standards hourly, using a 4-hour rolling average.

(c) BOILERS AND INTEGRATED GASIFICATION COMBINED CYCLE PLANTS.

(1) IN GENERAL.—After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any boiler, or integrated gasification combined cycle plant that is a new affected unit to discharge into the atmosphere any gases which contain

(A) sulfur dioxide in excess of 2.0 lb/MWh;

(B) nitrogen oxides in excess of 1.0 lb/MWh;

(C) particulate matter in excess of 0.20 lb/MWh; or

(D) if the unit is coal-fired, mercury in excess of 0.015 lb/MWh, unless:

(i) mercury emissions from the unit, determined assuming no use of on-site or off-site pre-combustion treatment of coal and no use of technology that captures mercury, are reduced by 80 percent;

(ii) fine gas de sulfurization (FGD) and selective catalytic reduction (SCR) are applied to the unit; or

(iii) a technology is applied to the unit and the permitting authority determines that the technology is equivalent in terms of mercury capture to the application of FGD and SCR.

(2) EXEMPTION.—Notwithstanding subparagraph (1)(D), integrated gasification combined cycle plants with a combined capacity of 150 MW or less that comply with the mercury requirement under subparagraph (1)(D) if they are constructed as part of a demonstration project under the Secretary of Energy that will include a demonstration of removal of significant amounts of mercury as determined by the Secretary of Energy in conjunction with the Administrator as part of the solicitation process.

(3) DISCHARGES.—After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any oil-fired boiler that is an existing affected unit to discharge into the atmosphere any gases which contain particulate matter in excess of 0.04 lb/MWh.

(4) COMBUSTION TURBINES.—

(1) GAS-FIRED COMBUSTION TURBINES.—After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any gas-fired combustion turbine that is a new affected unit to discharge into the atmosphere any gases which contain nitrogen oxides in excess of—

(A) 0.85 lb/MWh (15 ppm at 15 percent oxygen), if the unit is a simple cycle combustion turbine;

(B) 1.084 lb/MWh (3.5 ppm at 15 percent oxygen), if the unit is a simple cycle combustion turbine;

(C) 0.62 lb/MWh (9 ppm at 15 percent oxygen), if the unit is not a simple cycle turbine
and neither uses add-on controls nor is located within 50 km of a class I area.

"(2) COAL-FIRED COMBUSTION TURBINES.—After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any coal-fired combustion turbine that is a new affected unit to discharge into the atmosphere any gases which contain sulfur dioxide, nitrogen oxides, particulate matter, or mercury in excess of the emission limits under subparagraphs (c)(1)(A) through (D).

"(3) COMBUSTION TURBINES THAT ARE NOT GAS-FIRED OR COAL-FIRED.—After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any combustion turbine that is not gas-fired or coal-fired and that is a new affected unit to discharge into the atmosphere any gases which contain—

"(A) sulfur dioxide in excess of 2.0 lb/MWh;

"(B) nitrogen oxides in excess of—

"(i) 0.289 lb/MWh (12 ppm at 15 percent oxygen), if the unit is a simple cycle combustion turbine and is located within 50 km of the Lake Superior region; and

"(ii) 1.01 lb/MWh (42 ppm at 15 percent oxygen), if the unit is a simple cycle combustion turbine; is not a simple cycle combustion turbine; or is not dual-fuel capable; or is not a simple cycle combustion turbine, is dual-fuel capable, and uses add-on controls; or is not a simple cycle combustion turbine and is located within 50 km of the Lake Superior region.

"(C) particulate matter in excess of 0.20 lb/MWh.

"(D) mercury in excess of 0.0002 lb/MWh (1.3 ppm at 15 percent oxygen).

"(4) COAL-FIRED OR COMBUSTION TURBINES FOR USE IN SITUATIONS NOT COVERED UNDER SECTION 111.—Nothing in this section shall prohibit the Administrator need not review any standard promulgated under subsection (b) for affected units subject to standards under section 111 of this Act.

"(5) COAL-FIRED COMBUSTION TURBINES.—Nothing in this section shall be construed to require a permit to operate the affected unit, when revising standards promulgated under subsection (b), to reflect the degree of emission limitation and percent reductions achieved in practice, the Administrator shall, when revising standards promulgated under subsection (b), conduct a comprehensive program of research, including environmental monitoring, and assessment to enhance scientific understanding of the human health and environmental effects of particulate matter and demonstrate the efficacy of emission reductions under this title for purposes of reporting to Congress under section 103.

"(6) EXPAND CURRENT RESEARCH AND KNOWLEDGE.—The purposes of such a program are to—

"(1) expand current research and knowledge of the contribution of mercury from electricity generation to mercury in fish and other biota, including—

"(A) the response of and contribution to mercury in the biota owing to atmospheric deposition of mercury emissions from U.S. electricity generation on both local and regional scales;

"(B) the long-term contributions of mercury from U.S. electricity generation on mercury accumulations in ecosystems, and the effects of mercury reductions in that sector on the environment and public health;

"(C) the role and contribution of mercury, from U.S. electricity generation facilities and anthropogenic and natural sources to fish contamination and to human exposure, particularly with respect to sensitive populations of fish;

"(D) the contribution of U.S. electricity generation to population exposure to mercury in freshwater fish and seafood and quantification of linkages between U.S. mercury emissions and domestic mercury exposure and its health effects; and

"(E) the contribution of mercury from U.S. electricity generation in the context of other domestic and international sources of mercury, including transport of global anthropogenic and natural background levels;

"(2) improve understanding of the health and environmental effects of fine particulate matter components related to electricity generation emissions (as distinct from other fine particle fractions) and the contribution of U.S. electrical generating units to those effects including—

"(A) the chronic effects of fine particulate matter from electricity generation in sensitive population groups; and

"(B) personal exposure to fine particulate matter from electricity generation; and

"(3) improve understanding of the contributions of U.S. emissions of sulfur dioxide, nitrogen oxides, mercury, and particulate matter to local and regional air quality impacts and the cost and feasibility of technologies that would facilitate compliance with new emission reduction standards; and

"(4) enhance the health and environmental benefits associated with fine particulate matter and mercury.

"(7) EXPAND CURRENT RESEARCH AND KNOWLEDGE.—The purposes of such a program are to—

"(1) expand current research and knowledge of the contribution of emissions from electricity generation to mercury in fish and other biota, including—

"(A) the response of and contribution to mercury in the biota owing to atmospheric deposition of mercury emissions from U.S. electricity generation on both local and regional scales;

"(B) the long-term contributions of mercury from U.S. electricity generation on mercury accumulations in ecosystems, and the effects of mercury reductions in that sector on the environment and public health;

"(C) the role and contribution of mercury, from U.S. electricity generation facilities and anthropogenic and natural sources to fish contamination and to human exposure, particularly with respect to sensitive populations of fish;

"(D) the contribution of U.S. electricity generation to population exposure to mercury in freshwater fish and seafood and quantification of linkages between U.S. mercury emissions and domestic mercury exposure and its health effects; and

"(E) the contribution of mercury from U.S. electricity generation in the context of other domestic and international sources of mercury, including transport of global anthropogenic and natural background levels;

"(2) improve understanding of the health and environmental effects of fine particulate matter components related to electricity generation emissions (as distinct from other fine particle fractions) and the contribution of U.S. electrical generating units to those effects including—

"(A) the chronic effects of fine particulate matter from electricity generation in sensitive population groups; and

"(B) personal exposure to fine particulate matter from electricity generation; and

"(3) improve understanding of the contributions of U.S. emissions of sulfur dioxide, nitrogen oxides, mercury, and particulate matter to local and regional air quality impacts and the cost and feasibility of technologies that would facilitate compliance with new emission reduction standards; and

"(4) enhance the health and environmental benefits associated with fine particulate matter and mercury.

"(8) EXPAND CURRENT RESEARCH AND KNOWLEDGE.—The purposes of such a program are to—

"(1) expand current research and knowledge of the contribution of emissions from electricity generation to mercury in fish and other biota, including—

"(A) the response of and contribution to mercury in the biota owing to atmospheric deposition of mercury emissions from U.S. electricity generation on both local and regional scales;

"(B) the long-term contributions of mercury from U.S. electricity generation on mercury accumulations in ecosystems, and the effects of mercury reductions in that sector on the environment and public health;

"(C) the role and contribution of mercury, from U.S. electricity generation facilities and anthropogenic and natural sources to fish contamination and to human exposure, particularly with respect to sensitive populations of fish;

"(D) the contribution of U.S. electricity generation to population exposure to mercury in freshwater fish and seafood and quantification of linkages between U.S. mercury emissions and domestic mercury exposure and its health effects; and

"(E) the contribution of mercury from U.S. electricity generation in the context of other domestic and international sources of mercury, including transport of global anthropogenic and natural background levels;
(7) characterize mercury emissions from low-rank coals, for a range of traditional control technologies, like scrubbers and selective catalytic reduction; and 

(8) expand and integrate, where appropriate, monitoring networks in order to cost-effectively track on a continuing basis, changes in human health and the environment attributable to the emission reductions required under this title.

(a) develop and employ methods to routinely monitor, collect, and compile data on the status and trends of mercury and its transformation products in emissions from affected facilities, atmospheric deposition, surface water quality, and biological systems. Emphasis shall be placed on those methods that—

(i) improve the ability to routinely measure mercury in dry deposition processes;

(ii) improve understanding of the spatial and temporal distribution of mercury deposition in order to determine source-receptor relationships and patterns of long-range, regional, and local deposition;

(iii) improve understanding of aggregate effects of methylmercury and other pollutants; and

(iv) improve understanding of the effectiveness and cost of mercury emissions controls;

(b) modernize and enhance the national air quality and atmospheric deposition monitoring networks in order to cost-effectively expand and integrate, where appropriate, monitoring capabilities for sulfur, nitrogen, and mercury, and mercury bioaccumulation in freshwater and marine biota;

(c) maintain and upgrade models that describe the interactions of emissions with the atmosphere and resulting air quality implications and models that describe the response of ecosystems to atmospheric deposition; and

(d) assess indicators of ecosystems health related to sulfur, nitrogen, and mercury, including characterization of the causes and consequences as they pertain to air pollutants and evaluation of recovery.

(2) REPORTING REQUIREMENTS.—Not later than January 1, 2008, and not later than every 5 years thereafter, the Administrator shall provide a peer reviewed report to the Congress on the costs, benefits, and effectiveness of emission reduction programs under this title.

(a) The report under this subparagraph shall address the relative contribution of emission reductions from U.S. electricity generating units to the United States and other countries. Such a report shall—

(i) in an area designated as attainment or nonattainment under section 107(d), the owner or operator of the affected unit must demonstrate that the emissions reductions achieved under other titles of the Clean Air Act with respect to sulfur dioxide, nitrogen oxides, and mercury; and

(ii) perform and enhance long-term monitoring of sulfur, nitrogen, and mercury, and parameters related to acidification, nutrient enrichment, and mercury bioaccumulation in freshwater and marine biota;

(b) maintain and upgrade models that describe the interactions of emissions with the atmosphere and resulting air quality implications and models that describe the response of ecosystems to atmospheric deposition; and

(c) assess indicators of ecosystems health related to sulfur, nitrogen, and mercury, including characterization of the causes and consequences as they pertain to air pollutants and evaluation of recovery.

(b) MAJOR SOURCE EXEMPTION.—An affected unit shall be considered neither a major emitting facility or major stationary source nor a part of a major emitting facility or major stationary source, for purposes of compliance with the requirements of parts C and D of title I, and shall not otherwise be subject to any provisions under section 169A or 169B, for a period of 20 years after the date of enactment of this section. This applicability provision only applies to affected units that are either subject to the performance standards of section 481 or meet the following requirements within 3 years after the date of enactment of the Clear Skies Act of 2005:

(1) The owner or operator of the affected unit properly operates, maintains and repairs pollution control equipment to limit hourly emissions of any pollutant regulated under this Act below the applicable implementation standard to limit the emissions of particulate matter from the affected unit to 0.03 lb/MJ within eight years after the date of enactment of the Clear Skies Act of 2005, and

(2) The owner or operator of the affected unit uses good combustion practices to minimize emissions of nitrogen oxides.

Good combustion practices may be accomplished through control technology, combustion technology improvements, or workplace practices.

(b) CLASS I AREA PROTECTIONS.—Notwithstanding the provisions of subsection (a), an affected unit located within 50 km of a Class I area on which construction commences after the date of enactment of the Clear Skies Act of 2005 is subject to those provisions under part C of title I pertaining to the review of a new or reconstructed major stationary source’s impact on a Class I area.

(c) PRECONSTRUCTION REQUIREMENTS.—Except as provided in its plan under section 110, as program to provide for the regulation of the construction of an affected unit that ensures that the following requirements within 3 years after the date of enactment of this Act are met:

(1) in an area designated as attainment or nonattainable under section 107(d), the owner or operator of the affected unit must demonstrate to the State that the emissions increase from the construction or operation of such unit will not cause, or contribute to, air quality violations of any national ambient air quality standard;

(ii) notwithstanding clauses (i) through (iii) and subsection (d)(3), if requested by a State, an area may be redesignated as transitional if—

(i) the emissions increase from the construction or operation of such unit will not cause, or contribute to, air quality violations of any national ambient air quality standard;

(ii) in a range designated as attainment or unclassifiable under section 107(d), the owner or operator of the affected unit must demonstrate to the State that the emissions increase from the construction or operation of such unit will not cause, or contribute to, air quality violations of any national ambient air quality standard;

(iii) status and trends in visibility; and

(iv) status and trends in visibility; and

(v) status and trends in visibility; and

(vi) status and trends in visibility; and

(vii) status and trends in visibility; and

(viii) status and trends in visibility; and

(ix) status and trends in visibility; and

(x) status and trends in visibility; and

(xi) status and trends in visibility; and

(xii) status and trends in visibility; and

(xiii) status and trends in visibility; and

(xiv) status and trends in visibility; and

(xv) status and trends in visibility; and

(xvi) status and trends in visibility; and

(xvii) status and trends in visibility; and

(xviii) status and trends in visibility; and

(xix) status and trends in visibility; and

(xx) status and trends in visibility; and

(3) in an area designated as attainment or nonattainable under section 107(d), the owner or operator of the affected unit must demonstrate to the State that the emissions increase from the construction or operation of such unit will not cause, or contribute to, air quality violations of any national ambient air quality standard;
In section 110 as follows:

(A) By amending clause (i) of subsection (a)(2)(D) by inserting “except as provided in subsection (q),” before the word “prohibit-"

(B) By adding the following new subsections at the end thereof:

”(q) Transmittal of Plan for Regulatory Action.

(1) In General.—The Administrator shall, in reviewing, under subsection (a)(2)(D)(i), any plan with respect to affected units, with- in the preceding 126(d)(i)

(“A) consider, among other relevant fac- tors, emissions reductions required to occur by the attainment date or dates of any relevant attainment area or areas in the other State or States;

(B) not require submission of plan provi- sions mandating emissions reductions from such affected units, unless the Administrator determines that—

(i) emissions from such units may be re- ducted at least as cost-effectively as emis- sions reductions in the State or each other State from each other principal category of sources of the relevant pollutant, polluters, or pre-cursors thereof, including industrial boilers, on-road mobile sources, and any other category of sources that the Administrator may iden- tify, and

(ii) reductions in such emissions will im- prove air quality in the other State’s or States’ nonattainment area or areas at least as cost- effectively as reductions in emissions in the State or each other State from each other principal category of sources of the relevant pollutant, polluters, or pre-cursors thereof, to the maximum extent that a methodology is reasonably available to make such a determin- ation;

(C) develop an appropriate peer reviewed methodology for making determinations under subparagraph (B) by December 31, 2006; and

(D) not require submission of plan provi- sions subjecting affected units, within the meaning of section 126(d)(i), to requirements with an effective date prior to December 31, 2011.

(2) Proximity.—In making the determina- tion under clause (ii) of subparagraph (B) of paragraph (1), the Administrator will use the best available peer-reviewed models and methodologies to consider the proximity of the source or sources to the other State or States and incorporate other source charac- teristics.

(3) Effect on Regulations.—Nothing in paragraph (1) shall be interpreted to require revisions to the provisions of 40 CFR parts 51, 121, and 122 (2001) or 52.21 (2001).

(f) Transitional Areas.—

(1) Maintenance.—

(A) Submission of Inventory and Anal- yses.—By December 31, 2011, each area desig- nated as transitional pursuant to section 107(d)(1) shall submit an updated emission in- ventory and an analysis of whether growth in on-station, off-station, or the number of miles traveled, will interfere with attain- ment by December 31, 2011.

(B) Review.—No later than December 31, 2011, the Administrator shall review each transitional area’s maintenance analysis, and, if the Administrator determines that growth in emissions will interfere with attai- nment by January 1, 2014, the Adminis- trator shall consult with the State and de- termine what action, if any, is necessary to assure that attainment will be achieved by December 31, 2014.

(2) Prevention of Significant Deteriora- tion.—Each area designated as transitional pursuant to section 107(d)(1) shall be treated as an unclassifiable area for purposes of the prevention of significant de- terioration provisions of part C of this title.

(3) Consequences of Failure to ATtain By 205.—No later than June 30, 2016, the Ad- ministrator shall determine whether each area designated as transitional for the 8-hour ozone standard has attained that standard. If the Adminis- trator determines that a transitional area has not attained the standard, the area shall be redesignated as nonattainment within one year of the determination and the State shall be required to submit a State imple- mentation plan revision satisfying the provi- sions of sections 472 within two years of re- designation as nonattainment.

(4) In section 111(b)(1) by adding the fol- lowing new subparagraph (C) after subpara- graph (B):

“(C) No standards of performance promul- gated under this section shall apply to units subject to performance standards promulgated pursuant to section 481.”

(5) In section 112:

(A) By amending paragraph (1) of sub- section (c) to read as follows:

“(1) In General.—Not later than 12 months after November 15, 1990, the Administrator shall publish, and shall from time to time, but not less often than every eight years, re- view, if appropriate, in response to public comment or new information, a list of all categories and subcategories of major sources and pollutants identified under para- graph (3) of the air pollutants listed pursu- ant to subsection (b). Electric utility steam-generating units listed under section 303(b) of the Solid Waste Disposal Act shall not be included in any category or subcategory list- ed under this subsection. The Administrator shall have the authority to regulate the emission of hazardous air pollutants listed under section 112(b), other than mercury compounds, by electric utility steam gener- ating units. The determination shall be based on public health concerns and, on an individual source basis shall: consider the effects of emissions controls installed or anticipated to be installed in order to meet other emission reduction requirements under this Act by 2018; and, be based on a peer re- viewed study with notice and opportunity to comment, to be completed not before Janu- ary 2015. Any such regulations shall be pro- luminated within, and shall not take effect before, the date eight years after the com- pletion of the study and for the remaining segment of the implementation schedule set forth in section 472. To the extent prac- ticable, the categories and subcategories listed under this subsection shall be con- sistent with the list of source categories es- tablished pursuant to section 111 and part C. Nothing in the preceding sentence limits the Administrator’s authority to establish sub- categories under this section, as appro- priate.”

(B) By amending subparagraph (A) of sub- section (d)(8)(D)(ii) of section 110 by adding the following:—

“(A) Study.—The Administrator shall per- form a study of the hazards to public health reasonably anticipated to occur as a result of exposure to emissions of hazardous air pollutants listed under subsection (b) after imposition of the require- ments of this Act. The Administrator shall report the results of this study to the Con- gress within three years after November 15, 1990.”

(6) Section 126 is amended as follows:

(A) By replacing section 126(c)(2)(D)(i) with “section 110(a)(2)(D)(i)”.

(B) In the language at end of subsection (c) by striking “subsection (d)(8)(D)(ii)” and in- serting “subsection 110(a)(2)(D)(i)” and deleting the last sentence.

(D) By adding at the end the following:

“[d definition of affected unit.

(1) In General.—For purposes of this sub- section, the term ‘affected unit’ means any unit that is subject to emission limitations under subpart 2 of part B, subpart 2 of part C, or part D, or is a designated unit under section 407.”

(E) Section 128.

(1) FINDING FOR AFFECTED UNITS.—To the extent that any petition submitted under subsection (b) after the date of enactment of the Clean Skies Act of 2005 seeks a finding for an affected unit, then, notwithstanding any provision in subsections (a) through (c) to the contrary:

(A) The Administrator may not determine that affected units emit, or would emit, any air pollutant in violation of the prohibition of section 110(a)(2)(D)(i) unless that Adminis- trator determines that—

(i) such emissions may be reduced at least as cost-effectively as emissions from other principal category of sources of sulfur dioxide, nitrogen oxides, carbon dioxide, or pre-cursors thereof, including industrial boilers, on-road mobile sources, and off- road mobile sources, and any other category of sources that the Administrator may iden- tify, and

(ii) reductions in such emissions will im- prove air quality in the other State’s or States’ nonattainment area or areas at least as cost- effectively as reductions in emissions from each other principal category of sources of sulfur dioxide, nitrogen oxides, carbon dioxide, or pre-cursors thereof, to the maximum extent that a methodology is reason- ably available to make such a determin- ation.

In making the determination under clause (ii), the Administrator shall use the best available peer-reviewed methodology that consider the proximity of the source or sources to the petitioning State or political subdivision and incorporate other sources characteristics.

(C) The Administrator shall develop an appropriate peer reviewed methodology for making determinations under subparagraph (B) by December 31, 2006.

(D) The Administrator shall not make any findings with respect to an affected unit under this section prior to December 1, 2011.

(2) Section 128(b) is amended by adding the following:

“Not later than 12 months after January 1, 2010, the Administrator shall make a find- ing or deny the petition by the December 31, 2011.”

(F) The Administrator, by rulemaking, shall extend the compliance and implementa- tion deadlines in subsection (c) to the extent necessary to assure that no affected unit shall be subject to any such deadline prior to January 1, 2014.”

(G) The promulgation or revision of any regulation under title IV, Noise Pollution—Title IV of the Clean Air Act (relating to noise pollution) (42 U.S.C. 7641 et seq.), is redesignated as title VII and amended by inserting sections 476 through 479 as sections 701 through 703, respectively, and conforming all cross-ref- erences thereto accordingly.

(H) Section 110 of the Clean Air Act Amendments of 1990 (relating to acid deposition control) is amended by deleting section 120 (industrial sulfur dioxide emis- sions).

(I) Monitoring—Section 821(a) of title VIII of the Clean Air Act Amendments of 1990 (miscellaneous provisions) is amended to read as follows:

“(a) Monitoring.—The Administrator shall promulgate regulations within eighteen
months after November 15, 1990, to require that all affected sources subject to subpart 1 of part B of title IV of the Clean Air Act as of December 31, 2009, shall also monitor carbon dioxide emissions according to the timetable as in section 405(b). The regulations shall require that such data be reported to the Administrator. The provisions of section 405(e) of title IV of the Clean Air Act shall apply for purposes of this section in the same manner and to the same extent as such provision applies to the monitoring and data referred to in section 405. The Administrator shall implement this subsection under 40 CFR part 75 (2002), amended as appropriate by the Administrator."

By Mr. SMITH (for himself and Mrs. LINCOLN):

S. 132. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance; to the Committee on Finance.

Mr. SMITH. Mr. President, today, I am reintroducing important legislation to help more Americans realize the dream of homeownership. The Mortgage Insurance Fairness Act would make mortgage insurance payment premiums tax deductible. In doing so, it will help more lower-income Americans purchase homes for their families.

It is widely recognized that homeownership is an important stabilizer and safe communities. As such, the Federal Government has long sought to increase homeownership. President Bush has announced a goal of 5.5 million new homeowners by the year 2010. Achieving that goal requires helping those that have typically had difficulty purchasing homes—young people, low-income families, members of minority groups.

Government and private mortgage insurance programs help first-time, low-income and veteran borrowers afford to purchase homes. The Veterans Affairs (VA), Federal Housing Authority (FHA), Regional Housing Authority (RHA) and Private Mortgage Insurance (PMI) programs allow buyers to make a down payment of 3 percent or less of the appraised value. For many lower- and middle-income families, mortgage insurance makes it possible for them to buy their first home.

In Oregon, more than 137,000 families held mortgages with either FHA or private mortgage insurance in 2002. In 2001, 62 percent of the insured home purchases in Oregon were low-income borrowers, and insured mortgages covered 25 percent of all home purchase loans that year.

Nationwide, mortgage insurance covers over half of home loans made to African American and Hispanic borrowers. Similarly, over half of the loans to borrowers with incomes below the median income were covered by mortgage insurance. The people who use mortgage insurance are regular working families who live in every community throughout the country. In all, more than twelve million American families own a home through mortgage insurance.

Currently, these borrowers are not allowed to deduct the cost of their mortgage insurance from their Federal taxes. If these payments were made deductible, the cost of homeownership would go down and more families would be able to buy homes. It is estimated that the Mortgage Insurance Fairness Act would increase the number of homeowners by 300,000 per year.

The Mortgage Insurance Fairness Act would make mortgage insurance help to make the dream of owning a home attainable for more Americans. We came very close to enacting this legislation last year when it was included in the Senate version of the bill. Unfortunately, in the end we were not able to complete action on this bill. I look forward to again working with my colleagues to see this legislation is passed and signed into law. I thank you for the opportunity to speak today, and I urge my colleagues to support this important bi-partisan legislation. I ask unanimous consent that the text of this legislation be printed in the Record.

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

S. 132

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 ‘‘Mortgage Insurance Fairness Act’’.

SEC. 2. PREMIUMS FOR MORTGAGE INSURANCE.

(a) In general—Paragraph (3) of section 168(h) of the Internal Revenue Code of 1986 (relating to qualified residence interest) is amended by adding after subparagraph (D) the following new subparagraph:

"(E) MORTGAGE INSURANCE PREMIUMS TREATED AS INTEREST.—

(1) IN GENERAL.—Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this subsection as qualified residence interest.

(2) PHASEOUT.—The amount otherwise allowable as a deduction under clause (1) shall be reduced (but not below zero) by 10 percent of such amount for each $1,000 ($500 in the case of a married individual filing a separate return) or (fraction thereof) that the taxpayer’s adjusted gross income for the taxable year exceeds $100,000 ($50,000 in the case of a married individual filing a separate return).

(b) DEFINITION AND SPECIAL RULES.—Paragraph (4) of section 168(h) of the Internal Revenue Code of 1986 (relating to other definitions and special rules) is amended by adding at the end the following new subparagraphs:

"(E) QUALIFIED MORTGAGE INSURANCE.—The term ‘‘qualified mortgage insurance’’ means—

(1) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

(2) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1990 (12 U.S.C. 4901), as in effect on the date of enactment of this subsection).

"(F) SPECIAL RULES FOR PREPAID QUALIFIED MORTGAGE INSURANCE.—Any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which such amount is paid shall be chargeable to capital account and shall be treated as paid in such periods to which so allocated. No deduction shall be allowed for the unamortized balance of such account if such mortgage is satisfied before the end of its term. The preceding sentences shall not apply to amounts paid for qualified mortgage insurance provided by the Veterans Administration or the Rural Housing Administration.''

SEC. 3. INFORMATION RETURNS RELATING TO MORTGAGE INSURANCE.

Section 6063H of the Internal Revenue Code of 1986 (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end the following new subsection:

"(h) RETURNS RELATING TO MORTGAGE INSURANCE PREMIUMS.—

(1) IN GENERAL.—The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating $600 or more for any calendar year, shall make a return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

(2) STATEMENT TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

(3) SPECIAL RULES.—For purposes of this subsection—

(A) regulations similar to the rules of subsection (c) shall apply, and

(B) the term ‘‘mortgage insurance’’ means—

(1) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1990 (12 U.S.C. 4901), as in effect on the date of the enactment of this subsection).

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to amounts paid or accrued after the date of enactment of this Act in taxable years ending after such date.

By Mr. TALENT (for himself and Mr. FRINGOLD):

S. 133. A bill to amend section 302 of the PROTECT Act to modify the standards for the issuance of the AMBER Alert communications network; to the Committee on the Judiciary.

Mr. TALENT. Mr. President, 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. 133

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 ‘‘Tory Jo’s AMBER Response Act’’.
SEC. 2. MINIMUM STANDARDS FOR ISSUANCE AND DISSEMINATION OF ALERTS THROUGH AMBER ALERT COMMUNICATIONS NETWORK.

Section 302(b) of the PROTECT Act (42 U.S.C. 5791a(b)) is amended by adding at the end of existing subsection (b): “(6)(B) by striking ‘The Secretary’ and inserting the following: ‘(3) The Secretary; and’ “(3) The Secretary; and” “(B) by striking ‘one hundred and six thousand acres’ and inserting ‘133,000 acres’."

By Mrs. FEINSTEIN:

S. 134. A bill to adjust the boundary of Redwood National Park in the State of California; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I am pleased to introduce legislation sponsored by Senator BOXER to adjust the boundary of Redwood National Park in the State of California to include the addition of the Mill Creek property. This continues the effort initiated in the last Congress with the leadership of Congressman MIKE THOMPSON, to solidify and expand the co-operative management relationship between the United States Government and the State of California, working together to protect forever the ancient majesty of the redwood forest.

In 2002, the California Department of Parks and Recreation acquired from the Save-the-Redwoods League 25,000 acres of forest land known as the Mill Creek property in Del Norte County, which is contiguous with the Redwood National and State parks boundary. This bill would include within the park boundary the Mill Creek acquisition and about 900 acres of land acquired and added to the State redwood parks since the 1978 expansion of the Redwood National Park boundary. There would be no Federal costs for land acquisition or development resulting from this legislation.

Approval of the expansion of the boundary of the Redwood National Park to include the headwaters of Mill Creek will complete the vision of the Redwood Park embraced by Senator Kuchel in S.1370 that he introduced in 1967, a vision dating back to the McLaughlin-Cook report issued by the National Park Service in 1937. Protection of the headwaters of Mill Creek will secure the long term viability of the ancient redwoods already within Redwood National and State Park. It would permanently safeguard the coast salmon which spawn to produce life in the clear, cold waters of this forest.

These lands will be managed by the same cooperative management agreement between the National Park Service and the California Department of Parks and Recreation. This partnership is viewed as a model of interagency cooperative management efforts and will provide for more efficient and cost-effective management of an ecologically significant resource.

This bill enjoys strong support from local and Federal officials, including Del Norte County and the Department of the Interior. Given this support and lack of controversy, I believe this legislation to be of great importance to ensure that our Redwood National Park is further protected.

I have long held a deep interest in protecting California’s magnificent Redwoods. The coast redwood, the sequoia sempervirens, is native only to the West Coast where it stands in a narrow band from the tip of the Big Sur Coast to the Chetco River, just north of the California-Oregon border. The redwood forest is broader than any other tree in the world and traces its lineage to among the oldest of living things. The cathedrals formed by these ancient trees inspire the best in us as a people. The redwood forests of California are a national and worldwide treasure that is ours to protect and preserve.

In 1966, the Headwaters Agreement was negotiated in part in my offices to protect approximately 7,500 acres of old growth redwoods, which was the largest group of redwoods held in private ownership at the time. It is my great pleasure today to introduce this legislation to extend our national commitment to collaboration in preservation of the redwoods and the watersheds they anchor.

I applaud Congressman MIKE THOMPSON’s commitment to this issue and urge my colleagues to support this legislation.

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. 134

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 "Redwood National Park Boundary Adjustment Act of 2005".

SEC. 2. REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT.

Section 2(a) of the Act of Public Law 90-545 (16 U.S.C. 79b(a)) is amended—

(1) in the first sentence, by striking ‘‘(a) The area’’ and all that follows through the period at the end and inserting the following: ‘‘(a)(1) The Redwood National Park consists of the land generally depicted on the map entitled ‘‘Redwood National Park, Revised Boundary’’, numbered 167/0502, and dated February, 2003.’’;

(2) by inserting after paragraph (1) (as designated by paragraph (1)) the following:

‘‘(2) The map referred to in paragraph (1) shall’’;

(A) on file and available for public inspection in the appropriate offices of the National Park Service; and

‘‘(B) provided by the Secretary of the Interior to the appropriate officers of Del Norte and Humboldt Counties, California.’’; and

(3) in the second sentence—

(A) by striking ‘‘The Secretary’’ and inserting the following: ‘‘(3) The Secretary; and’’; and

(B) by striking ‘‘one hundred and six thousand acres’’ and inserting ‘‘133,000 acres’’.

By Mrs. FEINSTEIN:

S. 136. A bill to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing education services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. I rise today to introduce a bill that combines needed help for small Yosemite schools, and an addition to the beautiful Golden Gate National Recreation Area. Each of these bills individually has passed both the House and Senate in previous Congresses.

The first title of this legislation provides critical funds to three small schools nestled in the heart of Yosemite National Park and authorizes the Yosemite Regional Transportation System to shuttle visitors in and out of the park.

Approximately 130 children of park service employees are taught in the three elementary small schools located in Yosemite National Park—Wawona, El Portal, and Yosemite Valley elementary schools.

These schools represent a dying breed of education models; they are small schools that teach children who live in remote communities and are taught by one or a group of teachers. At El Portal, three teachers instruct 53 students in seven grades. Wawona has 17 students in 7 grades who are taught by one teacher/principal.

And Yosemite Valley serves 60 students in 8 grades who are taught by two teachers.

The remote location of these schools, their small sizes and California’s unique method for funding education, have all contributed to the schools amassing a combined deficit of $290,000. In their efforts to continue to provide basic educational services to students, the schools have had to cut supplemental instruction that would normally be available to students taught outside of the park.

Some have suggested that these schools consolidate into one to pool their limited resources. While this may seem to solve the problem, you must understand that many of these students already travel many miles on treacherous mountainous roads to attend their current schools. If the three schools were to consolidate, this problem would be exacerbated, requiring many students to make a 2 hour commute to their new schools.

These bills individually have passed both Houses of Congress assembled,
I do not believe this is a viable option and that is why I support this legislation.

Last year, Senator BINGAMAN, Congresswoman RADANOVICH and I worked out a compromise on this legislation that would allow the Park to function while providing the National Park Service’s budget. The compromise includes the following terms:

For fiscal year 2006 through 2009, the Secretary of the Interior is authorized to make payments up to $500,000 in funds to the Bass Lake Union Elementary School District and the Mariposa Unified School District for educational services to students who are dependents of persons engaged in the administration, operation, and maintenance of the Park or students who live at or near the Park; the Secretary can only provide the funds if the State of California and local agencies maintain 2005 per-student funding levels to the schools, and the Secretary also must make sure that the assistance to the schools does not reduce the remaining funding available to Yosemite National Park below fiscal year 2005 levels.

Furthermore, this legislation allows the Park Service to allot federal funds for the continuing operation of a bus service that shuttles visitors through Yosemite National Park—the Yosemite Area Regional Transportation System. The federally funded demonstration project that allowed YARTS to offer services on a temporary basis expired in May 2002 and since then, YARTS has leveraged local funds to ensure that service is not discontinued.

Both the Park Service and YARTS are supportive of continuing their mutally beneficial agreement. This legislation would do just that by taking the burden off local entities and providing the necessary assistance that this service needs.

I am also pleased to introduce today a second title in this legislation to allow the National Park Service to extend the boundaries of the Golden Gate National Recreation Area, GGNRA, by acquiring critical natural landscapes and scenic vistas. This bill meets several distinct needs in California and national needs of all National Park System visitors by adding 4,600 acres of pristine natural land to the boundary of the Golden Gate Recreation Area. It will protect four major wetlands, preserve the home of numerous threatened, rare and endangered species that speciate in this region, allow potential access to valuable future trail links to contiguous State and county parks, and establish a dramatic and logical southern entrance to the park.

A key component of this legislation is its three-way, local-state-federal partnership. Half of the total purchase price of these lands has already been donated by local and State sources. Additionally, this legislation specifically provides that all land transactions involve a willing seller and willing buyer.

Furthermore, this bill has the strong support of local community groups, the former Golden Gate National Recreation Area Advisory Commission, the San Mateo County Board of Supervisors, the National Park Service, and the California State Farm Bureau. It also has the endorsement of the San Francisco Chronicle and the San Mateo Mercury News. I know of no opposition to this bill.

Expanding the boundary of the Golden Gate National Recreation Area to include Rancho Corral de Tierra through such a beneficial partnership is an opportunity to be missed. A vast land within a major metropolitan area that offers extraordinary scenic views of the Pacific coastline and the greater Bay Area, a place with plants found nowhere else on earth find refuge, a home for rare and endangered animals, is available now for protection and enjoyment. We have the chance to enjoy this special land and to leave a lasting legacy for our children and our grandchildren. California’s national parks are truly invaluable and the park that this bill supports offers an opportunity for visitors and residents to enjoy unique national habitats and offers a unique chance for the National Park Service and the community to work together, not only to protect the environment, but also the interests of the nearby communities and national and international visitors.

This bill enjoys strong support from local and State officials and I hope that it will receive bipartisan support this Congress, as it did last Congress. Congressman Tom Lantos plans to introduce companion legislation for this bill in the House and I applaud his leadership on this issue.

I urge my colleagues to support this bill. 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. 136
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.
The table of contents of this Act is as follows:

TITLe I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS
Sec. 102. Payments for educational services. Sec. 103. Authorization for park facilities to be located outside the boundaries of Yosemite National Park System.

TITLe II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

TITLe I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS

SEC. 101. PAYMENTS FOR EDUCATIONAL SERVICES. (a) In General.—(1) For fiscal years 2006 through 2009, the Secretary of the Interior may provide funds to the Bass Lake Joint

Union Elementary School District and the Mariposa Unified School District in the State of California for educational services to students who are dependents of persons engaged in the administration, operation, and maintenance of Yosemite National Park; or (b) who live within or near the park upon request properly made only by the United States.

(2) The Secretary’s authority to make payments under this section shall terminate if the State of California or local education agencies do not continue to provide funding to the schools referred to in subsection (a) at per student levels that are no less than the amount provided in fiscal year 2005.

LIMITATION ON AMOUNT OF FUNDS.—Payments made under this section shall only be used to pay public employees for educational services provided in accordance with subsection (a). Payments may not be used for construction, construction contracts, or major capital improvements.

(c) LIMITATION ON AMOUNT OF FUNDS.—Payments made under this section shall not exceed the lesser of—

(1) $400,000 in any fiscal year; or (2) the amount necessary to provide students described in subsection (a) with educational services that are generally provided and generally available to students who attend public schools elsewhere in the State of California.

(d) SOURCE OF PAYMENTS.—(1) Except as otherwise provided in this subsection, the Secretary may use funds appropriated to the National Park Service from appropriations, donations, or fees.

(2) Funds from the following sources shall not be used to make payments under this section:

(A) Any law authorizing the collection or expenditure of entrance fees or use fees at units of the National Park System, or authorizing the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-1 et seq.); the recreational fee demonstration program established under section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (16 U.S.C. 4601-6a note); and the National Park Passport Program established under section 602 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5992).

(B) Emergency appropriations for flood recovery at Yosemite National Park.

(3)(A) The Secretary may use an authorized funding source to make payments under this section only if not required to be used for flood recovery at Yosemite National Park from such source (after subtracting any payments to the school districts authorized under this section) is greater than or equal to the amount made available to the park for the prior fiscal year, or in fiscal year 2005, whichever is greater.

(B) It is the sense of Congress that any payments made under this section should not result in a reduction of funds to Yosemite National Park from any specific funding source that with connected funds, funding levels should reflect annual increases in the park’s operating base funds that are generally made to units of the National Park System.

SEC. 102. AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF YOSEMITE NATIONAL PARK.

(a) FUNDING AUTHORITY FOR TRANSPORTATION SYSTEMS AND EXTERNAL FACILITIES.—Section 814(c) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 366) is amended—

(1) in the heading by inserting “and Yosemite National Park” after “Zion National Park”; and (2) in the first sentence—
(A) by inserting “and Yosemite National Park” after “Zion National Park”; and

(B) by inserting “for transportation systems or after ‘appropriated funds’; and

(3) by striking the first sentence by striking “facilities” and inserting “systems or facilities”.

(2) CLARIFYING AMENDMENT FOR TRANSPORTATION CONTRACT AUTHORITY.—Section 561 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5981) is amended in the first sentence by striking “service contract” and inserting “service contract, cooperative agreement, or other contractual arrangement”.

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

SEC. 201. SHORT TITLE.

This title may be cited as the “Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act”.

SEC. 202. GOLDEN GATE NATIONAL RECREATION AREA, CALIFORNIA.

(a) Section 2(a) of Public Law 92-289 (16 U.S.C. 460bb-1(a)) is amended—

(1) by striking “The recreation area shall comprise” and inserting the following:

‘‘(1) INITIAL LANDS.—The recreation area shall comprise’’;

(2) by striking “The following additional lands are also” and all that follows through the period at the end of the subsection and inserting the following:

‘‘(2) ADDITIONAL LANDS.—In addition to the lands described in paragraph (1), the recreation area shall include the following:


(B) Lands and waters in San Mateo County generally depicted on the map entitled ‘‘Sweeney Ridge Addition, Golden Gate National Recreation Area’’, numbered NPS 80–000–A, and dated May 1980.

(C) Lands generally depicted on the map entitled ‘‘Rancho Sweeney Ridge Addition, Golden Gate National Recreation Area’’, numbered NPS 80–001–1; Public Law 102–298.

(D) Lands generally depicted on the map entitled ‘‘Additions to Golden Gate National Recreation Area’’, numbered NPS–80–076, and dated July 2000; PWR–PL1RC.


(3) ACQUISITION LIMITATION.—The Secretary may acquire land described in paragraph (2)(E) only from a willing seller.’’.

By Mr. KERRY:

S. 137. A bill to modify the contract consolidation requirements in the Small Business Act, and for other purposes; to the Committee on Small Business and Entrepreneurship.

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

S. 138. A bill to authorize improvements to the microenterprise programs administered by the Small Business Administration; to the Committee on Small Business and Entrepreneurship.

By Mr. KERRY:

S. 139. A bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a vocational and technical entrepreneurship development program; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, as Ranking Member of the Small Business and Entrepreneurship Committee, today I am introducing a package of bills that will help small business owners with access to loans, business counseling and Federal procurement opportunities. Each of the bills was previously introduced as part of the Committee’s extensive Small Business Administration reauthorization proposal that passed the Senate unanimously last Congress. These are provisions that are necessary for enabling our nation’s small businesses to continue to have the resources and tools they need to compete with larger companies. They will help America’s budding entrepreneurs continue to seek out business opportunities and continue to start businesses. Enactment of this legislation by the Federal government is not there to make the road to success more difficult for small businesses, but to help them where the private sector will not.

Mr. President, the first bill of this package is the Small Business Federal Contractor Safeguard Act. It includes essential contractor protections that were a part of the Small Business Administration reauthorization package that passed the Senate unanimously last Congress but was stalled during negotiations in the House of Representatives. These much-needed protections will help level the playing field for small firms and create a procurement atmosphere that fosters competition, fair access and equal opportunity for smaller entities.

With Federal agencies awarding larger, more complex and more costly contracts, and with less staff at the Small Business Administration and within Agency contracting offices performing the oversight, this nation’s small businesses and its taxpayers are the ones shouldering the burden when small business goals continue to be unmet. In addition to helping small businesses obtain access to procurement opportunities, these goals are meant to help the government benefit from the cost-savings and innovations small business contractors can often provide.

Significant steps were made during the last Congress to address the challenges of contract bundling; however, it is my belief that passing and implementing binding statutory requirements is the only long-term solution to the on-going problem of contract bundling, also called contract consolidation. The first section of the bill creates a two-tiered approach to preventing unnecessary contract consolidation. Civilian agencies will be required to meet specific standards if they attempt to consolidate contracts paying more than $2 million. Additional requirements for those contracts above $5 million. The Department of Defense is required to meet two types of similar requirements for contracts above $5 million and $7 million. The bill also eliminates the use of the term “contract bundling” and expands the definition of “contract consolidation,” closing a loophole that has been widely used to the detriment of many small businesses.

In addition to increasing opportunities for prime contracts by eliminating unnecessary contract consolidation, this bill addresses another serious problem that disproportionately affects small business subcontractors by large business prime contractors. Small businesses have been severely hamstrung by the dishonest practices of some large business prime contracts that delay paying their subcontractors, falsely report their subcontracting plans and use “bait and switch” tactics.

This bill holds prime contractors responsible for the validity of subcontracting data, requiring the CEO to certify to the accuracy of the subcontracting report under penalty of law. It also makes the penalties for falsifying data included in subcontracting reports match the current $500,000 penalty for businesses that falsify their status as a small disadvantaged business. Under this bill, if one intentionally falsifies data as a part of a subcontracting report to a federal Agency, he is defrauding the United States government and will be punished to the full extent of the law.

Finally, the bill requires contracting officers to maintain a database of contract performance that is made available to the small business subcontractor upon completion of the contract. This report can then be used as a record of past performance, building a history that will help successful small firms bid on future Federal prime contracts or subcontracts. Each contracting officer will be empowered to report to the Inspector General of the prime contractor until he also receives the completed and accurate performance report. Any material breach of contract that is found will be immediately reported to the Inspector General of that Agency for a complete investigation.

The second bill of this small business legislative package is the SBA Microenterprise Improvements Act. It was also included as part of the Small Business Administration reauthorization package and passed by the Senate unanimously last Congress. I am re-introducing these provisions because they are vital to the microenterprise programs administered by the SBA: the Microloan Program and the Program for Investment in Microentrepreneurs (PRIME).

As I have stated on numerous occasions, I disagree with the Administration’s proposals to cut back funding for microloans and training assistance intended to encourage entrepreneurship and foster America’s smallest small businesses. And I wholeheartedly disagree with the Administration’s ill-
founded argument that these borrowers are being, or will be, served through the SBA’s 7(a) loan guarantee program. SBA’s loan programs are not one-size fits all. The small borrower in the Microloan program is different, and therefore has different needs than the small business borrower being served through the 7(a) loan program. Both lending vehicles are important, but they are different, and one is not a substitute for the other.

Who are these borrowers being served through the microloan program? Thirty percent are African American; 11 percent are Hispanic; 37 percent are women; and, anywhere from 30 percent to 40 percent go to small businesses in rural areas. Because of their size, the size of the loan they need and their relative inexperience, small businesses borrowers are turned away by banks, and yet the Administration proposed cutting the Microloan program by 36 percent in its fiscal year 2004 budget, and cut all funding in its fiscal year 2005 budget. The SBA needs to fully fund these programs and put more resources into the office that manages the program. Four people are not enough to manage 1,400 loans and 180 grants a year for the SBA’s long-time manager of microenterprise programs, Jody Raskind, is leaving the Agency. All those who support the good work of fostering SBA’s Microloan program are sorry to see her go, not because of her dedication and hard work, but also because they are concerned that the Administration will never really fill the job, letting the programs languish. I urge the Administration to move quickly to fill that position, just as the private sector would, by working with the Microloan community to identify someone who is competent, resourceful and dedicated to monitoring integrity of these programs and fostering their success.

In addition, we need to finally enact some changes to the Microloan program that have passed the Senate several times over the last four years but have yet to pass the full Congress because of unrelated political fights. I urge my colleagues to let us move forward with making these provisions law, once and for all. The first part of the SBA Microenterprise Improvements Act includes many of the provisions passed as part of S. 174, a bill which Senator Snowe and I introduced in 2001 and the Committee and the full Senate voted to pass by unanimous consent in 2002. As I mentioned earlier, these provisions were also included as part of S.1375, the SBA reauthorization bill that passed the Senate unanimously in 2003, the updated budget and changes to the Microloan program included in this bill will improve the program in several ways.

First, it will allow intermediaries to make revolving-term loans or longer fixed term loans to small businesses. Currently, intermediaries may only make “short-term” loans with fixed terms, which restrict the ability of microlenders to structure loans that meet the needs of certain small enterprises. This will benefit small businesses, the lenders, and the SBA because it will eliminate repeated paperwork and unnecessary administrative burdens. It will help small businesses, such as carpenters, who need revolving loans to finance the jobs as they come in, rather than taking multiple little, fixed-term loans. Second, this bill also contains a change to the Micro lenders eligibility. Rather than giving eligibility to the expertise of the entity, this bill makes it possible for new entities to qualify as the SBA micro lending intermediaries if they have staffs who are experienced in this unique or specialized lending and technical assistance. This bill also adjusts, reflecting changes in the market, the average smaller size of microloans from $7,500 to $10,000, to make it consistent with similar changes enacted in December 2000. This will increase because microloan intermediaries that have a microloan portfolio with an average loan size of not more than $10,000 will now be eligible to receive an interest rate lower than the normal rate extended by the SBA to intermediaries. Thirdly, this bill requires the SBA to report annually on the requirements that states that Agency must contract out 7 percent of its loan dollars for intermediary training.

The second part of the SBA Microenterprise Improvements Act, like S.1375, requires the SBA to develop an improved subsidy rate model to determine the cost of microloans. The one the Agency has used since the program’s inception does not reflect the performance of the program. As mentioned earlier, the administration’s budget doubled the subsidy rate (which is the government’s cost of the program) from 6.78 percent to 13.05 percent, even though the program had not experienced any loss of federal funds since the first loan was made in 1995. This broken method of calculating the cost of these loans is a waste of taxpayer money because Congress has to appropriate unnecessary funds to run the program. Now is the time to move forward.

The third part of the package that I’m introducing today is a reintroduction of the Vocational Technical Entrepreneurship Development Act. Last Congress, I introduced this important piece of legislation as a companion to H.R. 1367, which bears the same name and was passed by the House, in the 107th and 108th Congresses, by Congressman Robert Brady of Pennsylvania.

Let me begin by reminding my colleagues that the Small Business Administration’s Office of Advocacy states that only half of all small businesses survive past four years and that management and education remain two of the most important ingredients to small business success. We often think of small business success as the ability to start a business, etc. — to succeed, but while adequate financing is vital, so too is careful planning and competent management. Often Americans who work in the trade sector—construction, plumbing, electrical Montana, etc.—enter these professions with the goal of one day starting their own business; however many of these aspiring entrepreneurs who participate in career training or vocational training in certain trades, unfortunately, find that over technical skill and “back room” management skills to grow and develop their fledgling business. This initiative would develop a
program that allows workers within the trades industry to move toward starting a new business by giving them the entrepreneurial skills to successfully manage a small business. Many small businesses fail not because they don’t know the industry or make poor-quality products or provide poor service, but because they don’t know the ins and outs of running a successful business.

The purpose of the Vocational and Technical Entrepreneurship Development Act is to assist in the development of curricula that will encourage students to think about starting a new business by giving them the skills and resources needed to succeed.

January 24, 2005

Mr. President, I urge all of my colleagues to cosponsor and support these three bills.

I ask unanimous consent that the text of the bills be printed in the Record.

S. 137

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 “Small Business Federal Contractor Safeguard Act of 2005”.

SEC 2. CONTRACT CONSOLIDATION.

(a) DEFINITIONS.—Section 3(e) of the Small Business Act (15 U.S.C. 632(o)) is amended to read as follows:

(1) definitions relating to consolidation of contract requirements.—For purposes of this Act—

(i) the term ‘consolidation of contract requirements’ and ‘consolidation’, with respect to contract requirements of a military department, Defense Agency, Department of Defense Field Activity, or any other Federal department or agency having contracting authority mean a use of a solicitation to obtain offers for a single contract or a multiple award contract, and more than one contract requires of that department, agency, or activity for goods or services that—

(A) have previously been provided to or performed by that department, agency, or activity under 2 or more separate contracts that are smaller in cost than the total cost of the contract for which the offers are solicited or

(B) are of a type capable of being provided or performed by a small business concern for that department, agency, or activity under 2 or more separate contracts that are smaller in cost than the total cost of the contract for which the offers are solicited;

(ii) the term ‘multiple award contract’ means—

(A) a contract that is entered into by the Administrator of General Services under the multiple award schedule program referred to in sections 2302(b) and (c) of title 10, United States Code;

(B) a multiple award task order contract or delivery order contract that is entered into under authority of sections 2304 and 2304d of title 10, United States Code, or sections 308H through 309K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.); and

(C) any other indeterminate delivery, indeterminate quantity contract that is entered into by a Federal agency with 2 or more sources pursuant to the same solicitation; and

(2) the term ‘senior procurement executive’ means—

(A) with respect to a military department, the official designated under section 16(b)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) as the senior procurement executive for the military department;

(B) with respect to a Defense Agency or a Department of Defense Field Activity, the official so designated for the Department of Defense; and

(C) with respect to a Federal department or agency other than those referred to in subparagraphs (A) and (B), the official so designated by that department or agency.

(b) PROCUREMENT STRATEGIES.—Section 15(e) of the Small Business Act (15 U.S.C. 64(e)) is amended—

(1) in paragraph (2)—

(A) by striking—

‘‘(A) in general,’’; and

(B) by striking subparagraphs (B) and (C); and

(2) by amending paragraph (3) to read as follows:

(3) LIMITATION ON USE OF ACQUISITION STRATEGIES INVOLVING CONSOLIDATION.—

(a) CERTAIN DEFENSE CONTRACT REQUIREMENTS.—An official of a military department, defense agency, or Department of Defense Field Activity shall not execute an acquisition strategy that includes the consolidation of contract requirements of the military department, agency, or activity with a total value in excess of $5,000,000, unless the senior procurement executive—

(i) conducts market research;

(ii) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements; and

(iii) determines that the consolidation is necessary and justified.

(b) CERTAIN CIVILIAN AGENCY CONTRACT REQUIREMENTS.—The head of a Federal agency shall not described in subparagraph (A) that has contracting authority shall not execute an acquisition strategy that includes a consolidation of contract requirements of the agency with a total value in excess of $5,000,000, unless the senior procurement executive of the agency first—

(i) conducts market research;

(ii) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements; and

(iii) determines that the consolidation is necessary and justified.

(c) ADDITIONAL REQUIREMENTS FOR HIGHER VALUE CONSOLIDATED CONTRACTS.—In addition to meeting the requirements under subparagraph (A) or (B), a procurement strategy by a civilian agency that includes a consolidated contract valued at more than $7,000,000 shall include—

(1) an assessment of the specific impediments to participation by small business concerns as prime contractors that will result from the consolidation;

(ii) the identification of the alternative strategies that would reduce or minimize the scope of the consolidation and the rationale for not choosing those alternatives;

(iii) actions designed to maximize small business participation as subcontractors, including provisions that encourage small business teaming for the consolidated procurement; and

(iv) actions designed to maximize small business participation as subcontracts (including suppliers) at any tier under the consolidated contracts that may be awarded to meet the requirements.

(d) NECESSARY AND JUSTIFIED.—A senior procurement executive may determine that an acquisition strategy involving a consolidation of contract requirements is necessary and justified for purposes of subparagraph (A), (B), or (C), if the benefits of the acquisition strategy substantially exceed the benefits of each of the possible alternative contracting approaches identified under clause (i) of any of those subparagraphs, as applicable. Savings in administrative or personnel costs alone shall not constitute, for such purpose, a sufficient justification for a consolidation of contract requirements in a procurement, unless the total amount of the cost savings is expected to be substantial in relation to the total cost of the procurement.

(e) BENEFITS.—Benefits considered for purposes of this paragraph may include cost and, regardless of whether quantifiable in dollar amounts—

(i) quality,

(ii) acquisition cycle;

(iii) terms and conditions; and
(iv) any other benefit directly related to national security or homeland defense.

(c) ADDITIONAL TO TECHNICAL ADVISERS.—Section 15(k) of the Small Business Act (15 U.S.C. 644(k)) is amended—

(1) in paragraph (5), by striking “bundled contract” and inserting “consolidated contract”;

(2) in paragraph (8), by striking “representative—” and inserting “representative at each major procurement center under subsection (1)”; and

(3) subsection (k)(6) is amended—

(d) PROCUREMENT CENTER REPRESENTATIVES.—Section 15(d) of the Small Business Act (15 U.S.C. 644(i)) is amended—

(1) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively;

(2) by striking “(1)(1)” and inserting “(2)”; and

(3) by inserting before paragraph (2), as redesignated, the following:

“‘(1)(1) The Administration shall assign not fewer than 1 procurement center representative at each major procurement center, in addition to not fewer than 1 for each State,”; and

(4) in paragraph (2), as redesignated, by striking “to the representative referred to in subsection (k)(6)” and inserting “to the traditional contracting officers of the center representative and the commercial market representative, with each such position filled by a different individual, and each such representative having specific responsibility in support of different contracting employees.”; and

(5) by striking “paragraph (2)” each place that term appears and inserting “paragraph (3)”.

(e) REPORT REQUIREMENTS.—Section 15(p)(4)(B) of the Small Business Act (15 U.S.C. 644(p)(4)(B)) is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking the period at the end and inserting the following: “and”; and

(3) by adding at the end the following:

“(iii) a description of best practices for maximizing small business prime and subcontracting opportunities.”;

(f) CONFORMING AMENDMENTS.—Section 15(p) of the Small Business Act (15 U.S.C. 644(p)) is amended—

(1) in subsection (a), by striking “BUNDLED CONTRACTS” and inserting “CONSOLIDATED CONTRACTS”;

(2) in the heading to paragraph (1), by striking “BUNDLED CONTRACT” and inserting “CONSOLIDATED CONTRACT”;

(3) in the heading to paragraph (4), by striking “CONTRACT BUNDLING” and inserting “CONTRACT CONSOLIDATION”;

(4) by striking “bundled contracts” each place that term appears and inserting “consolidated contracts”;

(5) by striking “bundled contract” each place that term appears and inserting “consolidated contract”;

(6) by striking “bundling of contract requirements” each place that term appears and inserting “consolidation of contract requirements”;

(7) in paragraph (4)(B)(ii), by striking “previously bundled” and inserting “previously consolidated”;

(8) in paragraph (4)(B)(ii)(I), by striking “were bundled” and inserting “were consolidated”;

(9) in paragraph (4)(B)(ii)(T)(bb), by striking “bundling the contract requirements” and inserting “consolidation of contract requirements”;

(10) in paragraph (4)(B)(ii)(T)(cc), by striking “bundled status” and inserting “consolidated status.”

SEC. 3. AGENCY ACCOUNTABILITY.

(a) In General.—Each procurement employee—

(1) shall communicate to their subordinates the importance of achieving small business goals; and

(2) shall have as an annual performance evaluation the success of that procurement employee in small business utilization, in accordance with the goals established under this section.

(b) Definitions.—In this section, the term “procurement employee” means a senior procurement executive, senior program manager, or small and disadvantaged business concerns; and

(c) Centralized Database; Payments Pending Reports.—Section 8(d)(7) of the Small Business Act (15 U.S.C. 637(d)(7)) is amended—

(1) by redesignating paragraph (11) as paragraph (14); and

(2) by inserting after paragraph (10) the following:

“(11) CERTIFICATION.—A report submitted by the prime contractor pursuant to paragraph (8)(E) to determine the attainment of a subcontract utilization goal under any subcontracting plan entered into with a Federal agency under this subsection shall contain the name and signature of the president or chief executive officer of the contractor, certifying that the subcontracting data provided in the report are accurate and complete.”

(d) Centralized Database.—The results of an evaluation under paragraph (10)(C) shall be included in a national centralized governmentwide database maintained by each Federal agency having contracting authority that shall ensure that the terms of each contract for goods and services includes a provision allowing the contracting officer of an agency to withhold an appropriate amount of payment with respect to a contract (depending on the size of the contract) until the date of receipt of complete, accurate, and timely subcontracting reports in accordance with paragraph (11).”

SEC. 4. SMALL BUSINESS PARTICIPATION IN PRIME CONTRACTING.

(a) Reserved Contracts.—Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended by adding at the end the following:

“(4) Any adjustment to the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), shall be immediately matched by an identical adjustment to the small business reserve for purposes of this subsection.”

(b) Participation in Multiple Award Contracts.—Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended—

(1) in paragraph (2), by striking “(2)” in carrying out paragraph (1)” and inserting “(3) in carrying out paragraphs (1) and (2)”;

(2) in paragraph (4), by striking “(3) Nothing in paragraph (1)” and inserting “(4) Nothing in this subsection”; and

(3) by inserting after paragraph (1) the following:

“(2)(A) In the case of orders under multiple award contracts, including Federal Supply Schedule contracts and multi-agency contracts subject to the small business reserve, contracting officers shall consider not fewer than 2 small business concerns if such small business concerns can offer the items sought by the contracting officer on competitive terms, with respect to price, quality, and delivery schedule, with the goods or services available in the market.

“(B) If only 1 small business concern can satisfy the requirement, the contracting officer shall include such small business concern in their evaluation.”

(c) Report Requirement.—Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended—

(1) by inserting “SITUATION” after “Secretary” in the heading to section 15(j); and

(2) by adding after paragraph (10)(C) the following:

“(11) REPORT.—Each report submitted under paragraph (1) shall contain, for the 6-month reporting period—

(A) the total number of multiple award contracts;

(B) the total number of small business concerns that received multiple award contracts;

(C) the total number of orders;

(D) the total value of orders;

(E) the number of orders received by small business concerns;

(F) the value of orders received by small business concerns;

(G) the number of small business concerns that received orders; and

(H) such other information that the Comptroller General considers relevant.

SEC. 5. SMALL BUSINESS PARTICIPATION IN SUBCONTRACTING.

(a) Certification Required.—Section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)) is amended—

(1) in subparagraph (E), by striking “and” at the end;

(2) in subparagraph (F), by striking the period at the end and inserting “and”; and

(3) by adding at the end the following:

“(‘G’ certification that the offeror or bidder will acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from small business concerns in the amount and quality used in preparing the bid or proposal, unless such small business concerns are no longer available or no longer certified to meet the quality, quantity, or delivery date.”.

(b) Penalties for False Certifications.—Section 18(c) of the Small Business Act (15 U.S.C. 654(c)) is amended by striking “of this Act” and inserting “or the reporting requirements of section 8(d)(11)).”

SEC. 6. EVALUATING SUBCONTRACT PARTICIPATION IN AWARDED CONTRACTS.

(a) Significant Factors.—Section 8(d)(4)(G) of the Small Business Act (15 U.S.C. 637(d)(4)(G)) is amended by striking “a bundled” and inserting “any”.

(b) Evaluation Reports.—Section 8(d)(10) of the Small Business Act (15 U.S.C. 637(d)(10)) is amended—

(1) by striking “is authorized to” and inserting “shall”; and

(2) by adding at the end the following:

“(D) report the results of each evaluation under subparagraph (C) to the appropriate contracting officers.”.

(c) Centralized Database; Payments Pending Reports.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) by redesignating paragraph (11) as paragraph (14); and

(2) by inserting after paragraph (10) the following:

“(11) CERTIFICATION.—A report submitted by the prime contractor pursuant to paragraph (8)(E) to determine the attainment of a subcontract utilization goal under any subcontracting plan entered into with a Federal agency under this subsection shall contain the name and signature of the president or chief executive officer of the contractor, certifying that the subcontracting data provided in the report are accurate and complete.”

SEC. 7. BUSINESSILLIC REFEREE TO CONGRESS.

(a) Small Business Act (15 U.S.C. 637(n)) is amended—

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

(2) by adding after paragraph (2) the following:

“(3) ANNUAL REPORT.—
“(A) In General.—The Associate Administrator of Business Development of the Administration shall collect data on the BusinessLINC program and submit an annual report to each of the Senate and the Committee on Small Business of House of Representatives.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

(i) the number of programs administered in each State;

(ii) the corresponding grant awards and the date of each award;

(iii) the dollar amount of the contracts in effect for the fiscal year, as a result of the BusinessLINC program; and

(iv) the number of teaming arrangements or partnerships created as a result of the BusinessLINC program.

S. 138

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 “SBA Microenterprise Development Act of 2005.”

SEC. 2. MICROLOAN PROGRAM IMPROVEMENTS.

(a) INTERMEDIARY ELIGIBILITY REQUIREMENTS.—Section 7(m)(2) of the Small Business Act (15 U.S.C. 636(m)(2)) is amended by striking the period after “Borrowers.”—

(1) in subparagraph (A), by striking “in paragraph (10); and” and inserting “of the term ‘intermediary’ under paragraph (11);”;

and

(2) in subparagraph (B)—

(A) by striking “(2) at least $7,500;” and

(B) by striking the period at the end and inserting the following:—

“or

(3) such other activities as the Administrator determines consistent with the purposes of this section.

(b) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a microenterprise technical assistance and capacity building program to provide assistance from the Administration in the form of grants to qualified organizations in accordance with this section.

(1) PURPOSES OF ASSISTANCE.—A qualified organization shall use grants made under this section—

(A) to provide training and technical assistance to disadvantaged Native American entrepreneurs and prospective entrepreneurs; and

(B) for such other activities as the Administrator determines consistent with the purposes of this section.

(2) QUALIFIED ORGANIZATIONS.—For purposes of eligibility for assistance under this section, an Indian tribe—

(A) is a low-income person; and

(B) lacks adequate access to capital or other resources essential for business success, or is economically disadvantaged, as determined by the Administrator.

(3) ELIGIBILITY CRITERIA.—The term ‘Indian tribe’ has the same meaning as in section 4(a) of the Indian Self-Determination and Education Assistance Act.

(4) DISADVANTAGED ENTREPRENEUR.—The term ‘disadvantaged entrepreneur’ means a microentrepreneur who—

(i) has at least 1 year experience providing, as an integral part of its microloan program, intensive marketing, management, and technical assistance to its borrowers.

(ii) has at least 3 years experience making microloans to startups, newly established, or growing small business concerns; and

(iii) has at least 1 year enterprise providing, as an integral part of its microloan program, intensive marketing, management, and technical assistance to its borrowers.

CONFORMING CHANGE IN AVERAGE SMALLER LOAN SIZE.—Section 7(m)(3)(F)(iii) of the Small Business Act (15 U.S.C. 636(m)(3)(F)(iii)) is amended by striking “$7,500” and inserting “$10,000.”

(c) LIMITATION ON THIRD PARTY TECHNICAL ASSISTANCE.—The National Economic Development Administration.

(1) PROGRAM REAUTHORIZATION.—The term ‘microentrepreneur’ means the owner or developer of a microenterprise.

(2) MICROENTERPRISE.—The term ‘microenterprise’ means a sole proprietorship, partnerships, or corporation that—

(A) has fewer than 5 employees; and

(B) generally lacks access to conventional loans, equity services, or other resources essential for business success.

(3) MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM.—The term ‘microenterprise development organization or program’ means a nonprofit entity, or a program administered by such an entity, including community development corporations or similar programs, community development financiers, microfinance institutions, or similar programs, small business development centers, and social service organizations, that provides services to disadvantaged individuals and/or entities.

(4) VERY LOW-INCOME PERSON.—The term ‘very low-income person’ means having an income, adjusted for family size, of not more than 130 percent of the poverty line (as defined in section 673(2)(B) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section).
(B) LIMIT ON INDIVIDUAL ASSISTANCE.—No single person may receive more than 10 percent of the total funds appropriated under this section in a single fiscal year.

(2) LIMITATION.—The Administrator shall ensure that not less than 50 percent of the grants made under this section are used to benefit very low-income persons, including those residing on Indian reservations.

(3) SUBGRANTS AUTHORIZED.—

(A) IN GENERAL.—A qualified organization receiving assistance under this section may provide grants using that assistance to qualified small and emerging microenterprise organizations, subject to such rules and regulations as the Administrator determines to be appropriate.

(B) LIMIT ON ADMINISTRATIVE EXPENSES.—Not more than 7.5 percent of assistance received by a qualified organization under this section may be used for administrative expenses in connection with the making of subgrants under subparagraph (A).

(4) DIVERSITY.—In making grants under this section, the Administrator shall ensure that grant recipients include both large and small microenterprise organizations, serving urban, rural, and Indian tribal communities serving diverse populations.

(5) PROHIBITION ON PREFERENCEAL CONSIDERATION.—No preference shall be given to any program participants. In making grants under this section, the Administrator shall ensure that any application made by a qualified organization that is a participant in the programs established under section 7(m) of the Small Business Act does not receive preferential consideration over applications from other qualified organizations that are not participants in such programs.

(f) RECORDKEEPING AND REPORTING.—

(A) IN GENERAL.—For each grant made under this section, the Administrator shall make grants to State small business development centers recognized under section 21(a)(3)(A).

(B) LIMIT ON INDIVIDUAL ASSISTANCE.—The term ‘small business development center’ means a small business development center described in section 21.

(C) MINIMUM GRANT.—Each grant awarded under the program shall be in an amount equal to not less than $200,000.

(D) APPLICATION.—Each State small business development center seeking a grant under the program shall submit to the Administrator an application in such form and manner as the Administrator may require.

(E) EVALUATION OF PROGRAM.—Not later than March 31, 2008, the Administrator shall transmit to Congress a report containing an evaluation of the program.

(S) CLEARINGHOUSE.—The Association shall act as a clearinghouse of information and expertise regarding vocational and technical entrepreneurship education programs. In each fiscal year in which grants are made under the program, the Administrator shall provide additional assistance to the Association to carry out the functions described in this subsection.

(1) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated to the Administrator $15,000,000 for each of the fiscal years 2005 through 2007 to carry out the provisions of this section, which shall remain available until expended.

(B) TRANSFER PROVISIONS.—

(1) SMALL BUSINESS ACT AMENDMENTS.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by redesignating section 37 as section 36.

(2) TRANSFER.—Section 37 of the Riegle Community Development and Regulatory Improvement Act of 1994 (15 U.S.C. 6901 note), as so designated by subsection (a) of this section, is transferred to, and inserted after, section 38 of the Small Business Act.

(c) REFERENCES.—All references in Federal law to the “Program for Investment in Microentrepreneurs Act of 1999” or the “PRIME Act” shall be deemed to refer to section 37 of the Small Business Act, as added by this section.

(d) RULE OF CONSTRUCTION.—Nothing in this section or the amendments made by this section shall affect any grant or assistance provided under the Small Business Act, or the Microentrepreneurs Act of 1999, before the date of enactment of this Act, and any such grant or assistance shall be subject to the provisions of the Small Business Act, and the Microentrepreneurs Act of 1999, as in effect on the day before the date of enactment of this Act.

S. 139

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 “Vocational and Technical Entrepreneurship Development Act of 2005.”

SEC. 2. VOCATIONAL AND TECHNICAL ENTREPRENEURSHIP DEVELOPMENT PROGRAM.

(a) DEFINITIONS.—In this section, the following definitions shall apply:

(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Small Business Administration.

(2) ASSOCIATION.—The term ‘Association’ means the association of small business development centers recognized under section 21(a)(3)(A).

(3) PROGRAM.—The term ‘program’ means the program established under subsection (b).

(4) SMALL BUSINESS DEVELOPMENT CENTER.—The term ‘small business development center’ means a small business development center described in section 21.

(5) STATE SMALL BUSINESS DEVELOPMENT CENTER.—The term ‘State small business development center’ means a small business development center from each State selected by the Administrator, in consultation with the Association and giving substantial weight to the Association’s recommendations, to carry out the program on a statewide basis in each State.

(b) ESTABLISHMENT. In accordance with this section, the Administrator shall establish a program under which the Administrator shall make grants to State small business development centers to enable such centers to provide, on a statewide basis, technical assistance to secondary schools, or to postsecondary vocational or technical schools, for the development and implementation of curricula designed to promote vocational and technical entrepreneurship.

(c) MINIMUM GRANT.—Each grant awarded under the program shall be in an amount equal to not less than $200,000.

(d) APPLICATION.—Each State small business development center seeking a grant under the program shall submit to the Administrator an application in such form and manner as the Administrator may require.

(e) REPORT TO ADMINISTRATOR.—The Administrator shall make as a condition of a grant under the program a grant shall remain available until expended.

(f) COOPERATIVE AGREEMENTS AND CONTRACTS.—The Administrator may enter into a cooperative agreement or contract with any State small business development center receiving a grant under this section to provide additional assistance that furthers the purposes of this section.

(g) EVALUATION OF PROGRAM.—Not later than March 31, 2008, the Administrator shall transmit to Congress a report containing an evaluation of the program.

(h) CLEARINGHOUSE.—The Association shall act as a clearinghouse of information and expertise regarding vocational and technical entrepreneurship education programs. In each fiscal year in which grants are made under the program, the Administrator shall provide additional assistance to the Association to carry out the functions described in this subsection.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 140. A bill to provide for a domestic defense fund to improve the Nation’s homeland defense, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mrs. CLINTON. Mr. President, 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. 140

Be it enacted by the Senate and House of Represent¬
atives of the United States of America in Congress as¬
sembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Domestic Defense Fund Act of 2005".

(b) Table of Contents.—

Sec. 1. Short title; table of contents
Sec. 2. Findings
Sec. 3. Definitions
Sec. 4. Grants to States, units of general local government and Indian tribes; authorizations
Sec. 5. Statement of activities and review
Sec. 6. Activities eligible for assistance
Sec. 7. Allocation and distribution of funds
Sec. 8. State and regional planning and communication systems
Sec. 9. Urban Area Security Initiative
Sec. 10. Flexible emergency assistance fund
Sec. 11. Federal preparedness, equipment, and training standards
Sec. 12. Nondiscrimination in programs and activities
Sec. 13. Remedies for noncompliance with requirement for nondiscrimination
Sec. 14. Reporting requirements
Sec. 15. Consultation by Attorney General
Sec. 16. Implementation of requirements or compacts; purposes
Sec. 17. Matching requirements; suspension of requirements for economically distressed areas

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Since the September 11, 2001, terrorist attacks on our country, communities all across America have been on the front lines in the war against terrorism on United States soil.

(2) Since September 11, 2001, communities have been forced to bear a significant portion of the burden that goes along with the war against terrorism, a burden that local governments should not have to bear alone.

(3) Our homeland defense will only be as strong as the weakest link at the State and local level. By providing our communities with the resources and tools they need to bolster emergency response efforts and provide for other emergency response initiatives, we will have a better-prepared home front.

(4) Homeland security experts have repeatedly called upon Congress to allocate homeland security resources based on threat- and risk-based factors. The National Commission on Terrorist Attacks Upon the United States (referred to in this Act as the "9/11 Commission") stated in its report: ‘ ‘We understand the contention that every State and taxpayer needs to have some minimum infrastructure for emergency response. But Federal homeland security assistance should not remain a program with no clear revenue sharing. It should supplement State and local resources based on the risks or vulnerability that merit additional support. Congress should not use this money as a pork barrel.’ ’ The Commission made unequivocally clear that the current method of allocating the majority of Federal homeland security resources to states and large urban areas is not fair and not adequate.

(5) Not only did the 9/11 Commission recommend that such changes be made in how Federal homeland security dollars are allocated, but commissions before it, such as the Homeland Security Independent Task Force of the Council on Foreign Relations, chaired by former Senators Gary Hart and Warren Rudman, have strongly recommended it as well.

(6) The Hart-Rudman Commission stated almost 2 years ago that: "Congress should establish a system for allocating scarce resources based less on dividing the spoils and more on identifying threats and vulnerabilities. To do this, the Federal Government should consider such factors as population, population density, vulnerability assessment, strategic and critical infrastructure within each State."

(7) In addition to the need for threat and risk-based funding, direct funding to our county and municipal government that is defined by law is necessary if we are to ensure that these communities, who are on the front lines of our nation’s homeland defense, receive critical Federal assistance resources quickly and efficiently. Numerous reports by organizations such as the United States Conference of Mayors, have clearly demonstrated that the current method of distributing Federal homeland security resources intended for local communities has not worked. Too often, too many communities receive resources, if at all, years after Congress appropriated the subject funds.

SEC. 3. DEFINITIONS.

(a) Definitions.—As used in this Act, the following definitions shall apply:

(1) Cty.—The term "Cty." means—

(A) any unit of general local government that is classified as a municipality by the United States Office of Management and Budget; or

(B) any other unit of general local government that is a town or township and which, in the determination of the Secretary—

(i) possesses powers and performs functions comparable to those associated with municipalities;

(ii) is closely settled; and

(iii) does not contain within its boundaries any incorporated place, as defined by the United States Bureau of the Census, that has entered into cooperation agreements with the United States Government to assist in the performance of homeland security objectives.

(2) Federal grant-in-aid program.—The term "Federal grant-in-aid program" means a program of Federal financial assistance other than loans and other than the assistance provided by this Act.

(3) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States Government considering an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or was considered an eligible recipient under chapter 67 of title 5, United States Code, prior to the repeal of such chapter.

(4) Metropolitan area.—The term "metropolitan area" means a standard metropolitan statistical area as established by the Office of Management and Budget.

(5) Metropolitan city.—(A) In general.—The term "metropolitan city" means—

(i) a city within a metropolitan area that is the central city of such area, as defined and used by the Office of Management and Budget; or

(ii) any other city, within a metropolitan area, which has a population of not less than 50,000 persons.

(B) Period of classification.—Any city that was classified as a metropolitan city for at least 2 years pursuant to subparagraph (A) in any year in which it was classified as a metropolitan city, and was not classified as a nonmetropolitan city in any year preceding such year, may, upon submission of written notification to the Secretary, defer its classification as a metropolitan city for all purposes under this Act, if it elects to have its population included in an urban county under subsection (d).

(6) Nonmetropolitan county.—Notwithstanding subparagraph (B), a city may elect not to retain its classification as a metropolitan city.

(7) POPULATION.—The term "population" means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period of time.

(8) SECRETARY.—The term "Secretary" means the Secretary of the Department of Homeland Security.

(9) STATE.—The term "State" means any State of the United States, or any instrumentalities thereof approved by the Governor, and the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(10) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any county, city, town, township, parish, village, or other general purpose political subdivision of a State; a combination of such political subdivisions is recognized by the Secretary; and the District of Columbia. The term "urban county" means any county within a metropolitan area.

(b) Basis and Modification of Definitions.—

(1) BASIS.—Where appropriate, the definitions listed in subsection (a) shall be based, with respect to any fiscal year, on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget available not less than 60 days before the beginning of such fiscal year.

(2) MODIFICATION.—The Secretary may modify the regulations of the Secretary (a) in order to reflect any technical change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

(c) DESIGNATION OF PUBLIC AGENCIES.—The chief executive officer of a State or a unit of general local government or 1 or more public agencies, including existing local public agencies, to undertake activities authorized under this Act.

(d) INCLUSION OF LOCAL GOVERNMENTS IN URBAN COUNTY POPULATION.—With respect to program years beginning with the program year for which grants are made available from amounts appropriated for fiscal year 2005 under section 4, the population of any unit of general local government which is included in the population of such urban county for 3 program years beginning with the program year in which its population was first so included and shall not otherwise be eligible for a grant as a separate entity, unless the urban county does not receive a grant in any year during such 3-year period.

(e) EXCLUSION OF LOCAL GOVERNMENTS FROM URBAN COUNTY POPULATION.
SECTION 5. STATEMENT OF ACTIVITIES AND REVIEW.

(a) Application.—
(1) IN GENERAL.—A State, metropolitan city, urban county, or unit of general local government desiring a grant under section 7(b) or (i) of section 7 shall submit an application to the Secretary that contains—
(A) a statement of homeland security objectives and the amount of funds; and
(B) the certifications required under paragraph (2) and, if appropriate, subsection (b).

(2) GRANTEE STATEMENT.—
(A) CONTENTS.—
(i) LOCAL GOVERNMENT.—In the case of the metropolitan cities or urban counties receiving grants under section 7(b) and units of general local government under section 7(i)(3), the statement of projected use of funds shall consist of proposed homeland security activities.
(ii) STATES.—In the case of States receiving grants under section 7, the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government.

(B) CONSULTATION.—In preparing the statement required under this subsection, the grantee shall consult with appropriate law enforcement agencies and emergency response authorities.

(C) FINAL STATEMENT.—A copy of the final statement and the certifications required under paragraph (2) shall be furnished to the Secretary and the Attorney General.

(D) MODIFICATIONS.—Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the procedures required under this paragraph for the preparation and submission of such statement.

(3) CERTIFICATION OF ENUMERATED CRITERIA BY GRANTEE TO SECRETARY.—A grant under section 7 shall not be awarded unless the grantee has certified to the satisfaction of the Secretary that the grantee—
(A) has developed a homeland security plan that identifies both short- and long-term homeland security needs that have been developed in accordance with the primary objectives and requirements of this Act; and
(B) will comply with the other provisions of this Act and all applicable laws.

(b) SUBMISSION OF ANNUAL PERFORMANCE REPORTS, AUDITS, AND ADJUSTMENTS.—
(1) IN GENERAL.—Each grantee shall submit to the Secretary, at times determined by the Secretary in consultation with the Grantee, a performance and evaluation report concerning the use of funds made available under section 7, together with an audit of the expenditures of funds and the relationship of such use to the objectives identified in the grantee’s statement under subsection (a)(2).

(2) UNIFORM REPORTING REQUIREMENTS.—
(A) RECOMMENDATIONS BY NATIONAL ASSOCIATIONS.—The Secretary shall encourage and assist national associations of grantees and national associations of units of general local government in non-traditional areas of development and recommend to the Secretary, not later than 1 year after the date of enactment of this Act, uniform recordkeeping, performance reporting, evaluation reporting, and auditing requirements for such grantees, States, and units of general local government, respectively.

(B) ESTABLISHMENT OF UNIFORM REPORTING REQUIREMENTS.—Based on the Secretary’s recommendations, and any further comments or suggestions submitted pursuant to paragraph (A), the Secretary shall establish uniform reporting requirements for grantees, States, and units of general local government.

(c) REVIEWS AND AUDITS.—Not less than annually, the Secretary shall make such reviews and audits as may be necessary or appropriate to determine—
(1) in the case of grants awarded under section 7(b), whether the grantee—
(A) has carried out its obligations under this Act and all applicable laws; and
(B) where applicable, has carried out its activities and its certifications in accordance with the requirements and the primary objectives and requirements of this Act and all other applicable laws; and
(ii) where applicable, has carried out its activities and its certifications in accordance with the requirements and the primary objectives and requirements of this Act and all other applicable laws; and
(iii) has a continuing capacity to carry out those activities in a timely manner; and
(iv) in the case of grants made under section 7(i), whether the State—
(A) has distributed funds to units of general local government in a timely manner and in compliance with the method of distribution described in its statement; and
(B) has carried out its certifications in compliance with the requirements of this Act and all applicable laws; and
(C) has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria described in subparagraph (A).

(d) ADJUSTMENTS.—The Secretary may make adjustments in the amount of the annual grants in accordance with the Secretary’s findings under this subsection. With respect to assistance made available to units of general local government under section 7(i)(3), the Secretary may adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with this Act and the Secretary’s reviews and audits under this subsection, except that funds already expended on eligible activities under this Act shall not be recaptured or deducted from future assistance to such units of general local government.

(e) AUDITS.—Insofar as they relate to funds provided under this Act, the financial transactions of recipients of such funds may be audited by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

METROPOLITAN CITY AS PART OF URBAN COUNTY.—In any case in which a metropolitan city is located, in whole or in part, within an urban county, the Secretary may, upon the joint request of such city and county, appoint the inclusion of such city as part of the urban county for purposes of submitting a statement under subsection (a) and carrying out activities under this Act.

SECTION 6. ACTIVITIES ELIGIBLE FOR ASSISTANCE.

Activities assisted under this Act may include—

(1) funding additional law enforcement, fire, and emergency resources, including covering overtime expenses;

(2) purchasing and refurbishing personal protective equipment for fire, police, and emergency personnel and acquire state-of-the-art technology to improve communication and streamlining efforts;

(3) improving cyber and infrastructure security by improving—
(A) security for water treatment plants, distribution systems, other water infrastructure, nuclear power plants, electrical grids, and energy infrastructure submitted pursuant to subparagraph (A), the Secretary shall establish uniform reporting requirements for grantees, States, and units of general local government, respectively.

(B) ECONOMY AND SECURITY.—The Secretary shall encourage and assist national associations of grantees and national associations of units of general local government in non-traditional areas of development and recommend to the Secretary, not later than 1 year after the date of enactment of this Act, uniform recordkeeping, performance reporting, evaluation reporting, and auditing requirements for such grantees, States, and units of general local government, respectively.

(C) REVIEWS AND AUDITS.—Not less than annually, the Secretary shall make such re-
(D) security for chemical plants and transportation of hazardous substances;
(E) security for agriculture infrastructure;
(F) security for national icons and Federal facilities that may be terrorist targets;
(G) assisting local emergency planning committees so that local public agencies can design, review, and improve disaster response systems;
(H) assisting communities in coordinating their efforts and sharing information with all relevant agencies involved in responding to terrorist attacks;
(I) establishing timely notification systems that enable communities to communicate with each other when a threat emerges;
(J) improving communication systems to provide information to the public in a timely manner about the facts of any threat and the precautions the public should take; and
(K) devising a homeland security plan, including determining long-term goals and short-term objectives, evaluating the progress of the plan, and carrying out the management, coordination, and monitoring of activities necessary for effective planning implementation.

SEC. 7. ALLOCATION AND DISTRIBUTION OF FUNDS.

(a) SET-ASIDE FOR INDIAN TRIBES.—

(1) IN GENERAL.—The Secretary shall reserve 1 percent of the amount appropriated for each fiscal year for grants pursuant to section 4(b)(1) (excluding the amounts for activities described in section 6) for grants to Indian tribes.

(2) SELECTION OF INDIAN TRIBES.—

(A) IN GENERAL.—The Secretary shall distribute amounts under this paragraph to Indian tribes on the basis of a competition conducted consistent with specific criteria for the selection of Indian tribes to receive such amounts.

(B) RULEMAKING.—The Secretary, after notice and public comment, shall promulgate regulations, which establish the criteria described in subparagraph (A).

(b) ALLOCATION TO METROPOLITAN CITIES AND URBAN COUNTIES.—

(1) ALLOCATION PERCENTAGE.—Of the amount remaining after allocations have been made to Indian tribes under subsection (a), the Secretary shall, not later than 60 days after the date on which such funds are appropriated, allocate and directly transfer 70 percent to metropolitan cities and urban counties.

(2) ENTITLEMENT.—Except as otherwise specified by the Secretary, each metropolitan city and urban county shall be entitled to an amount not to exceed its basic amount calculated by the Secretary as it pertains to the security of any category of infrastructure.

(3) COMPUTATION OF AMOUNT ALLOCATED TO METROPOLITAN CITIES AND URBAN COUNTIES.—

(1) VULNERABILITY AND THREAT FACTORS.—The Secretary shall calculate the amount to be allocated to each metropolitan city, which shall be the same ratio to the allocation for all metropolitan cities as the weighted average of—

(A) the population (including tourist, military, and commuter populations) of the metropolitan city divided by the population of all metropolitan cities;
(B) the population density of the metropolitan city divided by the population density of all metropolitan cities; and
(C) the proximity of the metropolitan city to international borders;

(D) the vulnerability of the metropolitan city as it pertains to each of the following:

(i) nuclear security;
(ii) water port security;
(iii) air transportation infrastructure security;
(iv) chemical release security;
(v) energy infrastructure security;
(vi) agriculture infrastructure security;

(E) the vulnerability of the metropolitan city as it pertains to nuclear security;

(F) the vulnerability of the metropolitan city as it pertains to homeland security;

(G) the vulnerability of the metropolitan city as it pertains to security of energy infrastructure;

(H) the vulnerability of the metropolitan city as it pertains to the security of inland waterway infrastructure;

(I) the vulnerability of the metropolitan city as it pertains to the security of freight and passenger rail transportation infrastructure;

(J) the vulnerability of the metropolitan city as it pertains to the security of aviation infrastructure;

(K) the vulnerability of the metropolitan city as it pertains to the security of agriculture infrastructure;

(L) the proximity of the metropolitan city to the nearest national icons and Federal facilities that may be a terrorist target, as determined by the Department of Homeland Security;

(M) the threat to the metropolitan city based upon information from the Department of Homeland Security;

(N) the weighted average of the ratios under paragraph (1)(A), shall constitute 20 percent;

(O) population, as defined by paragraph (1)(A), shall constitute 20 percent; and

(P) population density, as defined by paragraph (1)(B), shall constitute 15 percent; and

(iv) the remaining factors shall be equally weighted.

(2) POPULATION DENSITY.—The metropolitan city shall be ranked according to the density of their populations in calculating the weighted average of this factor. The population density ratio shall be 1 divided by the total number of metropolitan cities, not to exceed 100.

(3) PROXIMITY TO INTERNATIONAL BORDERS.—If a metropolitan city is located within 50 miles of an international border, the ratio under paragraph (1)(C) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of an international border.

(4) VULNERABILITY AS IT PERTAINS TO NUCLEAR SECURITY.—If a metropolitan city is located within 50 miles of an operating nuclear power plant, as identified by the Nuclear Regulatory Commission, the ratio under paragraph (1)(D) shall be 1 divided by the total number of metropolitan cities that are within such a zone, not to exceed 100.

(5) VULNERABILITY AS IT PERTAINS TO WATER PORT SECURITY.—If a metropolitan city is located within 50 miles of a water port, as defined and determined by the Department of Homeland Security that captures the same information for the same facilities, the ratio under paragraph (1)(E) shall be 1 divided by the total number of metropolitan cities, not to exceed 100, which are located within 50 miles of a water port.

(6) VULNERABILITY AS IT PERTAINS TO AIR TRANSPORTATION INFRASTRUCTURE SECURITY.—If a metropolitan city is located within 50 miles of any airport that is designated by the Federal Aviation Administration as a major passenger or cargo airports that are significant components of the Nation’s air transportation infrastructure as identified by the Department of Transportation, the ratio under paragraph (1)(I) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical airport transportation infrastructure, not to exceed 100.

(7) VULNERABILITY AS IT PERTAINS TO RAIL TRANSPORTATION INFRASTRUCTURE SECURITY.—If a metropolitan city is located within 50 miles of a rail transportation infrastructure as identified by the Department of Transportation, the ratio under paragraph (1)(J) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical rail transportation infrastructure, not to exceed 100.

(8) VULNERABILITY AS IT PERTAINS TO ENERGY INFRASTRUCTURE SECURITY.—If a metropolitan city is located within 50 miles of any energy infrastructure as identified by the Department of Energy or the Department of Homeland Security, the ratio under paragraph (1)(K) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical energy infrastructure, not to exceed 100.

(9) VULNERABILITY AS IT PERTAINS TO AGRICULTURE INFRASTRUCTURE SECURITY.—If a metropolitan city is located within 50 miles of any agriculture infrastructure as defined and determined by the Department of Agriculture and the Department of Homeland Security, the ratio under paragraph (1)(L) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical agriculture infrastructure, not to exceed 100.

(10) VULNERABILITY AS IT PERTAINS TO NATIONAL ICONS AND FEDERAL BUILDINGS.—If a metropolitan city is located within 50 miles of any national icons or Federal buildings, the ratio under paragraph (1)(M) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical national icons or Federal buildings, not to exceed 100.

(11) VULNERABILITY AS IT PERTAINS TO ENVIRONMENTAL PROTECTION.—If a metropolitan city is located within 50 miles of any environmental protection infrastructure, the ratio under paragraph (1)(N) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical environmental protection infrastructure, not to exceed 100.

(12) VULNERABILITY AS IT PERTAINS TO TRANSPORTATION INFRASTRUCTURE SECURITY.—If a metropolitan city is located within 50 miles of any transportation infrastructure as identified by the Department of Transportation, the ratio under paragraph (1)(O) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical transportation infrastructure, not to exceed 100.

(13) VULNERABILITY AS IT PERTAINS TO CRITICAL FACILITIES.—If a metropolitan city is located within 50 miles of any critical facilities, as defined and determined by the Department of Homeland Security, the ratio under paragraph (1)(P) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical facilities, not to exceed 100.

(14) VULNERABILITY AS IT PERTAINS TO CRITICAL INFRASTRUCTURE.—If a metropolitan city is located within 50 miles of any critical infrastructure, as defined and determined by the Department of Homeland Security, the ratio under paragraph (1)(Q) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical infrastructure, not to exceed 100.

(15) VULNERABILITY AS IT PERTAINS TO COMMUNITY SECURITY.—If a metropolitan city is located within 50 miles of any community security infrastructure, the ratio under paragraph (1)(R) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of critical community security infrastructure, not to exceed 100.

(16) VULNERABILITY AS IT PERTAINS TO OTHER CRITICAL FACILITIES.—If a metropolitan city is located within 50 miles of any other critical facilities, as defined and determined by the Department of Homeland Security, the ratio under paragraph (1)(S) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of other critical facilities, not to exceed 100.

(17) VULNERABILITY AS IT PERTAINS TO OTHER CRITICAL INFRASTRUCTURE.—If a metropolitan city is located within 50 miles of any other critical infrastructure, as defined and determined by the Department of Homeland Security, the ratio under paragraph (1)(T) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of other critical infrastructure, not to exceed 100.

(18) VULNERABILITY AS IT PERTAINS TO OTHER COMMUNITY SECURITY.—If a metropolitan city is located within 50 miles of any other community security infrastructure, the ratio under paragraph (1)(U) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of other community security infrastructure, not to exceed 100.

(19) VULNERABILITY AS IT PERTAINS TO OTHER CRITICAL FACILITIES.—If a metropolitan city is located within 50 miles of any other critical facilities, the ratio under paragraph (1)(V) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of other critical facilities, not to exceed 100.

(20) VULNERABILITY AS IT PERTAINS TO OTHER CRITICAL INFRASTRUCTURE.—If a metropolitan city is located within 50 miles of any other critical infrastructure, the ratio under paragraph (1)(W) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of other critical infrastructure, not to exceed 100.

(21) VULNERABILITY AS IT PERTAINS TO OTHER COMMUNITY SECURITY.—If a metropolitan city is located within 50 miles of any other community security infrastructure, the ratio under paragraph (1)(X) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of other community security infrastructure, not to exceed 100.

(22) VULNERABILITY AS IT PERTAINS TO OTHER CRITICAL FACILITIES.—If a metropolitan city is located within 50 miles of any other critical facilities, the ratio under paragraph (1)(Y) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of other critical facilities, not to exceed 100.

(23) VULNERABILITY AS IT PERTAINS TO OTHER CRITICAL INFRASTRUCTURE.—If a metropolitan city is located within 50 miles of any other critical infrastructure, the ratio under paragraph (1)(Z) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of other critical infrastructure, not to exceed 100.

(24) VULNERABILITY AS IT PERTAINS TO OTHER COMMUNITY SECURITY.—If a metropolitan city is located within 50 miles of any other community security infrastructure, the ratio under paragraph (1)(AA) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of other community security infrastructure, not to exceed 100.
The urban counties shall be ranked according to the number of urban counties, not to exceed 100. 

(M) INTELLIGENCE.—If a metropolitan city is among the 100 metropolitan cities that have been identified by the Department of Homeland Security as being special alert or heightened alert status for the longest periods of time, the ratio under paragraph (1)(M) shall be 1 divided by the total number of metropolitan cities that have been identified by the Department of Homeland Security, not to exceed 100.

(d) DISTRIBUTION OF AMOUNT ALLOCATED TO URBAN COUNTIES.—

(1) VULNERABILITY AND THREAT FACTORS.—The Secretary shall determine the amount to be allocated to each urban county, which shall bear the same ratio to the allocation for all urban counties as the weighted average of—

(A) the population (including tourist, military, and commuting populations) of the urban county divided by the population of all urban counties;

(B) the population density of the urban county;

(C) the proximity of the urban county to international borders;

(D) the vulnerability of the urban county as it pertains to chemical security; 

(E) the vulnerability of the urban county as it pertains to nuclear security;

(F) the vulnerability of the urban county as it pertains to land and water port security;

(G) the vulnerability of the urban county as it pertains to the security of energy infrastructure;

(H) the vulnerability of the urban county as it pertains to the security of inland waterway infrastructure;

(I) the vulnerability of the urban county as it pertains to the security of freight and passenger rail transportation infrastructure;

(J) the vulnerability of the urban county as it pertains to the security of aviation infrastructure;

(K) the vulnerability of the urban county as it pertains to the security of agriculture infrastructure;

(L) the proximity of the urban county to the nearest national icons and Federal facilities that may be a terrorist target, as determined by the Department of Homeland Security, and the proximity of all urban counties to such national icons and Federal facilities that may be a terrorist target, as determined by the Department of Homeland Security; and

(M) One that to the urban county based upon information from the Department of Homeland Security;

(2) CLARIFICATION OF COMPUTATION RATIOS.—

(A) RELATIVE WEIGHT OF FACTORS.—In determining the weighted average of the ratios under paragraph (1)—

(i) the procedure defined in paragraph (1)(M), shall constitute 25 percent;

(ii) population, as defined in paragraph (1)(A), shall constitute 20 percent;

(iii) population density, as defined in paragraph (1)(B), shall constitute 15 percent; and

(iv) the remaining factors shall be equally weighted.

(B) POPULATION DENSITY.—The population density ratio shall be 1 divided by the total number of urban counties, not to exceed 100. The urban counties shall be ranked according to the vulnerability of their populations in calculating the weighted average of this factor.

(C) PROXIMITY TO INTERNATIONAL BORDERS.—If an urban county is located within 50 miles of an international border, the ratio under paragraph (1)(C) shall be 1 divided by the total number of urban counties, not to exceed 100, which are located within 50 miles of an international border.

(D) VULNERABILITY AS IT PERTAINS TO CHEMICAL SECURITY.—If an urban county is within 50 miles of a chemical facility or a chemical release (as specified in the most recent risk management plans filed with the Environmental Protection Agency or another instrumentality), the ratio under paragraph (1)(E) shall be 1 divided by the total number of chemical facilities or chemical releases that have been identified by the Department of Homeland Security, not to exceed 100.

(E) VULNERABILITY AS IT PERTAINS TO NUCLEAR SECURITY.—If an urban county is located within 50 miles of an operating nuclear power plant, the ratio under paragraph (1)(E) shall be 1 divided by the total number of urban counties, not to exceed 100, which are located within 50 miles of an operating nuclear power plant.

(F) VULNERABILITY AS IT PERTAINS TO PORT SECURITY.—If an urban county is located within 50 miles of, the largest railroad hubs and other significant components of critical inland waterway infrastructure, not to exceed 100.

(G) VULNERABILITY AS IT PERTAINS TO ENERGY INFRASTRUCTURE SECURITY.—If an urban county is the 100 urban counties that are closest to, or within 50 miles of, non-nuclear power generating plants, compressors, and other significant components of critical energy infrastructure as identified by the Department of Energy or the Department of Homeland Security, the ratio under paragraph (1)(G) shall be 1 divided by the total number of urban counties that are located within 50 miles of a United States land or water port, not to exceed 100.

(H) VULNERABILITY AS IT PERTAINS TO INLAND WATERWAY INFRASTRUCTURE SECURITY.—If an urban county is among the 100 urban counties that are closest to, or within 50 miles of, the largest railroad hubs and other significant components of critical inland waterway infrastructure as identified by the Department of Transportation, the ratio under paragraph (1)(H) shall be 1 divided by the total number of urban counties that are located within 50 miles of critical inland water infrastructure, not to exceed 100.

(J) VULNERABILITY AS IT PERTAINS TO RAIL TRANSPORTATION INFRASTRUCTURE SECURITY.—If an urban county is among the 100 urban counties that are closest to, or within 50 miles of, the largest railroad hubs and other significant components of critical freight and passenger rail infrastructure, as identified by the Department of Transportation, the ratio under paragraph (1)(J) shall be 1 divided by the total number of urban counties that are located within 50 miles of critical inland water infrastructure, not to exceed 100.

(K) VULNERABILITY AS IT PERTAINS TO AIRPORT INFRASTRUCTURE SECURITY.—If an urban county is among the 100 urban counties that are closest to, or within 50 miles of, major feed yards, food processing facilities, and other significant components of the Nation’s agriculture infrastructure, as defined and determined by the Department of Agriculture and the Department of Homeland Security, the ratio under paragraph (1)(K) shall be 1 divided by the total number of urban counties that are located within 50 miles of such agriculture infrastructure, not to exceed 100.

(L) PROXIMITY TO NATIONAL ICONS AND FEDERAL BUILDINGS.—If an urban county is among the 100 urban counties that are closest to, or within 50 miles of, major federal feed yards, food processing facilities, and other significant components of the Nation’s agriculture infrastructure, as defined and determined by the Department of Agriculture and the Department of Homeland Security, the ratio under paragraph (1)(L) shall be 1 divided by the total number of urban counties that are located within 50 miles of such agriculture infrastructure, not to exceed 100.

(e) EXCLUSIONS.—

(1) IN GENERAL.—In computing amounts or exclusions under subsection (d) with respect to any urban county, units of general local government located in the county that are not included in the population of the county in determining the eligibility of the county to receive a grant under this subsection shall be excluded, except that any independent city (as defined by the Bureau of the Census) shall be included if it—

(A) is not part of any county;

(B) is not slightly contiguous to the county;

(C) is contiguous to the urban county;

(D) has entered into cooperation agreements with the urban county that provide for the publication by the urban county of management plans filed with the Environmental Protection Agency or another instrumentality of its management plans filed with the Environmental Protection Agency or another instrumentality;

(E) is not included as a part of any other unit of general local government for purposes of this section.

(2) INDEPENDENT CITIES.—Any independent city that is included in any fiscal year for purposes of computing amounts pursuant to the preceding sentence shall not be eligible to receive assistance under subsection (f) for that fiscal year.

(f) INCLUSIONS.—

(1) LOCAL GOVERNMENT STRADDLING COUNTY LINE.—In computing amounts under subsection (d) with respect to any urban county, there shall be included all of the area of any unit of local government that is part of, but is not located entirely within the boundaries of, such urban county if—

(A) the part of such unit of local government that is within the boundaries of such urban county would otherwise be included in computing the amount for such urban county under this section; and

(B) the part of such unit of local government that is not within the boundaries of such urban county is not included as a part
fiscal year preceding such consolidation; and
received grants under this section for the fis-
county.
under this subsection, the entire balance
balance of the consolidated government
year.
the same metropolitan area for that fiscal
metropolitan cities and urban counties in
allocated funds become available bears to
the amount of funds awarded to the city or
versely affected by the loss of such amounts
and the activities to be undertaken to meet
identify its homeland security objectives,
to be distributed funds will be required to
activities selected by such unit of general
amounts to any unit of general local govern-
vatives;
amounts it receives under this subsection to
expenses incurred by the State in carrying out
purses that total $500,000 in any fiscal year after allocations under subsections (a) and
(b), the Secretary shall allocate 30 percent
among the States for use in nonqualifying

(1) ALLOCATION TO STATES ON BEHALF OF NON-QUALIFYING COMMUNITIES.—

(1) IN GENERAL.—Of the amount appor-

(2) LIMITATION.—Paragraph (1) shall apply
only to a consolidation that—
(A) included all metropolitan cities that
received grants under this section for the fis-
cal year preceding such consolidation and that
were located within the urban county;
(B) included the entire urban county that
received a grant under this section for the fis-
cal year preceding such consolidation; and
(C) had the exact same boundaries as the
urban county.

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cal year preceding such consolidation; and
(C) had the exact same boundaries as the
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(1) EFFECT OF CONSOLIDATION.—Where data
are available, the amount to be allocated to a
metropolitan city that has been formed by the
consolidation of 1 or more metropolitan
cities within an urban county shall be equal
to the sum of the amounts that would have been
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(3) GROWTH RATE.—The population growth
rate of all metropolitan cities defined in sec-
tion 3(a)(6) shall be based on the population of

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amounts to which metropolitan cities and urban counties would be entitled under this section, and funds are not otherwise appropriated to meet the deficiency, the Secretary shall distribute the excess through a pro rata increase of all amounts determined under this section.

(2) INCREASE.—If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section exceeds the amounts to which metropolitan cities and urban counties would be entitled under this section, the Secretary shall distribute the excess through a pro rata increase of all amounts determined under this section.

SEC. 8. STATE AND REGIONAL PLANNING AND COMMUNICATION SYSTEMS.

(a) ALLOCATIONS.—From the amounts appropriated pursuant to subsection (b) of this section, the Secretary shall allocate $1,000,000,000 to States, regional cooperatives, and units of general local government for—

(1) homeland defense planning within the States;
(2) providing increased security through additional first responder personnel;
(3) purchasing or refurbishing, personal protective equipment for first responder personnel;
(4) homeland defense planning within the regions;
(5) the development and maintenance of Statewide training facilities and homeland security best-practices clearinghouses; and
(6) the development and maintenance of communications systems that can be used between and among first responders, including law enforcement, fire, and emergency medical personnel.

(b) USE OF FUNDS.—Of the amount allocated under subsection (a),

(1) $50,000,000 shall be used by the States for homeland defense planning and coordination within each State;
(2) $50,000,000 shall be used by regional cooperatives and operations and regional, multistate, or intrastate authorities for homeland defense planning and coordination within each region;
(3) $50,000,000 shall be used by the States to develop and maintain statewide training facilities and best-practices clearinghouses; and
(4) $400,000,000 shall be used by the States and regions of general local government to develop and maintain communications systems that can be used between and among first responders at the State and local level, including law enforcement, fire, and emergency personnel.

(c) ALLOCATIONS TO STATES.—

(1) IN GENERAL.—Amounts allocated to States under this section shall be allocated among the States based on factors such as threat, vulnerability, population, population density, the presence of critical infrastructure, and other factors considered appropriate by the Secretary.

(2) MINIMUM AMOUNT PROVISION.—The provision under section 7(1) relating to a minimum amount of funds payable to amounts allocated to States under this section.

(3) LOCAL COMMUNICATIONS SYSTEMS.—

(a) IN GENERAL.—Not less than 50 percent of the amounts allocated under subsection (b)(1) shall be used for the development and maintenance of local communications systems.

(b) DISTRIBUTION OF FUNDS.—Each State shall distribute amounts reserved for local communications systems in that State under subsection (b)(1) among units of general local government not later than 45 days after the State receives such amounts from the Federal Government.

(c) DISTRIBUTION TO REGIONAL COOPERATIONS.—Funds allocated under subsection (b)(2) shall be allocated to regional cooperation.
General and other Federal departments and agencies administering Federal grant-in-aid programs.

SEC. 16. INTERSTATE AGREEMENTS OR COM- PACTS, PURSUANT TO CONGRESSIONAL DIRECTION.

The consent of Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States—

(1) for cooperative effort and mutual assistance in support of homeland security planning and programs carried out under this Act as they pertain to interstate areas and to localities within such States; and

(2) to establish such agencies, joint or otherwise, that the States consider desirable for making such agreements and compacts effective.

SEC. 17. MATCHING REQUIREMENTS; SUSPENSION OF REQUIREMENTS FOR ECONOMICALLY DISTRESSED AREAS.

(a) Matching Requirement.—Grant recipients shall contribute, from funds other than those appropriated under this Act, an amount equal to 10 percent of the total funds received under this Act, which shall be used in accordance with the grantee’s statement of homeland security objectives.

(b) Waiver for Economic Distress.—The Secretary shall waive the matching requirement under subsection (a) for grant recipients that the Secretary determines to be economically distressed.

By Mr. LEVIN (for himself and Mr. JEFFORDS):

S. 141. A bill to amend part A of title IV of the Social Security Act to allow up to 24 months of vocational educational training to be counted as a work activity under the temporary assistance for needy families program; to the Committee on Finance.

I am pleased to be joined by Senator JEFFORDS in reintroducing legislation that seeks to add an important measure of flexibility to a provision of the Temporary Assistance for Needy Families program, TANF, under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The legislation we are introducing increases the limit on the amount of vocational educational training that a State can count towards meeting its work participation rate, from 12 to 24 months.

This legislation enjoys the support of the American Association of University Women, with over 100,000 members; the Workforce Alliance, a coalition of experienced leaders nationwide from the field of workforce development, who know what works in preparing people for jobs; the National Association of State Directors of Career Technical Education Consortium; the Center for law and Social Policy and the American Association of Community Colleges.

Under the pre–1996 Aid to Families with Dependent Children program, recipients could participate in post-secondary vocational training or community college programs for up to 24 months. While I support TANF’s emphasis on moving welfare recipients more quickly into jobs, I am troubled by the restriction on post-secondary education training, limiting it to 12 months. One year of vocational education is, under current law, an approved work activity, but the second year of post-secondary education study is not.

The limitation on post-secondary education and training raises a number of concerns, not the least of which is whether recipients are pushed into lower paying, short-term employment that will lead them back onto public assistance because they are unable to support themselves or their families. Well, according to recent studies, this is exactly what has happened in far too many cases.

According to a findings of the Congressional Research Service, although the majority of recipients who have left the welfare rolls left because they became employed, most remained poor.

The research also revealed that the hourly wage for these former welfare recipients ranged from $5.50 to $8.80 per hour. Study after study indicates that short-term training programs raise the income of workers only marginally, while completion of at least a 2-year associate degree has the greater potential of breaking the cycle of poverty for welfare recipients. According to the U.S. Census Bureau, the mean earnings of adults with an associate degree are 20 percent higher than adults who have not achieved such a degree.

In June of 2003, we were very pleased that our proposal was included in one of the Senate Finance Committee reported bill, which reauthorized TANF. However, the reauthorization bill was not considered by the full Senate. Rather, the Temporary Assistance for Needy Families Act has been twice extended.

It is our hope that the Senate will again act favorably and expeditiously on this legislation and that the House will support this much-needed State flexibility. We must do what is necessary to achieve TANF’s intended goal of getting people off of welfare and onto self-sufficiency.

All citizens should have the opportunity to become productive and successful members of the workforce. Again, I urge my colleagues to act quickly on this legislation. This modification will give the States the flexibility they need to improve the economic status of families across America.

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. 143

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

SECTION 1. INCREASE IN NUMBER OF MONTHS OF VOCATIONAL EDUCATIONAL TRAINING COUNTED AS A WORK ACTIVITY UNDER THE TANF PROGRAM.

Section 407(d)(8) of the Social Security Act (42 U.S.C. 607(d)(8)) is amended by striking “12” and inserting “24”.

By Mr. DAYTON:

S. 143. A bill to ensure that Members of Congress do not receive better pre-
scription drug benefits than Medicare beneficiaries; to the Committee on Homeland Security and Governmental Affairs.

Mr. DAYTON. Mr. President, 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. 143

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Taste of Our Own Medicine Act of 2005”.

SEC. 2. LIMITATION ON PRESCRIPTION DRUG BENEFITS OF MEMBERS OF CONGRESS.

(a) Limitation on Benefits.—Notwith- standing any other provision of law, the actuarial value of the prescription drug bene-
fits of any Member of Congress enrolled in a health benefits plan under chapter 89 of title 5, United States Code, may not exceed the actuarial value of basic prescription drug coverage (as defined in section 1860D-2(a)(3) of the Social Security Act (42 U.S.C. 1395w–18(a)(3)), as added by section 101(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173, 117 Stat. 71)).

(b) Regulations.—The Director of the Of-

By Mr. KOHL (for himself and Mr. CORZINE):

S. 144. A bill to change the date for regularly scheduled Federal elections and establish polling place hours; to the Committee on Rules and Administra-
nion.

Mr. KOHL. Mr. President, today I am introducing the Weekend Voting Act. This legislation will change the day for Congressional and Presidential elec-
tions from the first Tuesday in Novem-
ber to the first weekend in November.

This legislation is virtually identical to legislation that I first proposed in 1997 in the 105th Congress and most recently reintroduced in the 107th Con-
gress.

The last two elections have revealed a glaring need for us to rethink how we conduct elections in our Nation. The 2000 election galvanized Congress into passing major election reform legis-
lation. The Help American Vote Act, which was enacted into law in 2002, was an important step forward in establishing minimum standards for states in the administration of federal elections and in providing funds to replace outdated voting systems and improve election administration. The HAVA legislation also created a new federal election enforcement Commission, to serve as a clearinghouse for election administration information. That Commission is finally on its feet after a delayed start.

However, as the 2004 election made clear, there is much that still needs to be done.

With more and more voters needing to cast their ballots on Election Day, we need to build on the movement
which already exists to make it easier for Americans to cast their ballots by providing alternatives to voting on just one election day. Twenty-six States, including my own state of Wisconsin, now permit any registered voter to vote by absentee ballot. These innovations constitute 45 percent of the voting age citizens of the United States. Twenty-three states permit in-person early voting at election offices or at other satellite locations. The state of Oregon now conducts statewide elections completed by mail. These innovations are critical if we are to conduct free elections for it has become unreasonable to expect that a nation of 294 million people can line up at the same time and cast their ballots at the same time. And if we continue to try to do so, we will encounter even more reports of broken machines and long lines in the rain and registration errors that create barriers to voting.

That is why I have been a long-time advocate of moving our Federal election day from the first Tuesday after the first Monday in November to the first weekend in November. Holding our federal elections on a weekend will create more opportunities for voters to cast their ballots and will help end the gridlock at the polling places which threaten to undermine our elections.

Under this bill, polls would be open nationwide for a uniform period of time from Saturday, 6 p.m. eastern time to Sunday, 6 p.m. eastern time. Polls in other time zones would also open and close at this time. Election officials would be permitted to close polls during the overnight hours if they determine it would be inefficient to keep them open. Because the polls are open from Saturday to Sunday, they also would not interfere with religious observances.

Keeping polls open the same hours across the continental United States, also addresses the challenge of keeping results on one side of the country, or even a State, from influencing voting in places where polls are still open. Moving elections to the weekend will expand the pool of buildings available for polling stations and people available to work at the polls, addressing the critical shortage of poll workers.

Most important, weekend voting has the potential to increase voter turnout by giving all voters ample opportunity to get to the polls, without, offering another national holiday. There is already evidence that holding elections on a non-working day can increase voter turnout. In one survey of 44 democracies, 29 held elections on holidays or weekends and in all these cases voter turnout surpassed our country’s voter participation rates. Closer to home, weekend voting in some California counties resulted in increased voter turnout compared to comparable elections held on Tuesdays.

In 2004, the National Commission on Federal Election Reform recommended that we move our federal election day to a national holiday, in particular Veterans Day. As expected, the proposal was not well received among veterans and I do not endorse such a move, but I share the Commission’s goal of moving election day to a non-working day.

Since the mid-19th century, election day has been on the first Tuesday of November. Ironically, this date was selected because it was convenient for voters. Tuesdays were traditionally court day, and land-owning voters were often coming from a distance.

Just as the original selection of our national voting day was done for voter convenience, we must adapt to the changes in our society to make voting easier for the regular family. Sixty percent of all households have two working adults. Since most polls in the United States are open only 12 hours, from 7 a.m. to 7 p.m., voters often have only one or two hours to vote. As we saw in this last election, long lines in many polling places became the unacceptable norm in many communities, we have an obligation to reexamine how our Nation votes. In the last election, too many Americans had to confront a variety of obstacles to cast their ballots at their local polling places. We can do better by offering more flexible voting hours for Americans, especially working families.

Serious allegations have been raised about voting irregularities in Ohio during the 2004 presidential election. I agree with many of my colleagues that these allegations must be investigated to the fullest extent possible because when this very core of our democracy must have an equal opportunity to exercise the constitutional right to cast a vote in federal elections.

In the meantime, we have an obligation to do more than investigate. If we are to grant every American an equal opportunity to participate in the electoral process, and to elect our representatives in this great democracy, then we must be willing to reexamine all aspects of voting in America. Changing our election day to a weekend may seem like a change of great magnitude. Given the stakes—the integrity of future elections—I hope my colleagues will recognize it as a common sense proposal whose time has come.

I ask unanimous consent that the text of the Weekday Voting Act be printed in the RECORD.

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

S. 144

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

SEC. 1. SHORT TITLE.

This Act may be cited as the “Weekend Voting Act”.

SEC. 2. CHANGE IN CONGRESSIONAL ELECTION DAY TO SATURDAY AND SUNDAY.

Section 25 of the Revised Statutes (2 U.S.C. 7) is amended to read as follows:

SEC. 25. The first Saturday and Sunday after the first Monday in November, in every even numbered year, are established as the date of the election in each of the States and Territories of the United States, of Representatives and Delegates to the Congress commencing on the 3d day of January thereafter.

SEC. 3. CHANGE IN PRESIDENTIAL ELECTION DAY TO SATURDAY AND SUNDAY.

Section 1 of title 3, United States Code, is amended by striking “Tuesday next after the first Monday” and inserting “first Saturday and Sunday after the first Friday”.

SEC. 4. POLLING PLACE HOURS IN CONTINENTAL UNITED STATES.

(a) IN GENERAL.—

(1) PRESIDENTIAL GENERAL ELECTION.—

Chapter 1 of title 3, United States Code, is amended—

(A) by redesignating section 1 as section 1A; and

(B) by inserting before section 1A the following:

“1. Polling place hours in continental United States

“(a) Definitions.—In this section:

“(1) CONTINENTAL UNITED STATES.—The term ‘continental United States’ means the States (other than Alaska and Hawaii) and the District of Columbia.

“(2) PRESIDENTIAL GENERAL ELECTION.—The term ‘Presidential general election’ means the election for electors of President and Vice President.

“(b) Polling place hours.—

“(1) IN GENERAL.—Each polling place in the continental United States shall be open, with respect to a Presidential general election, beginning on Saturday at 6:00 p.m. eastern standard time and ending on Sunday at 6:00 p.m. eastern standard time.

“(2) EARLY CLOSING.—A polling place may close between the hours of 12:00 p.m. (midnight) and 5:00 a.m. local time as provided by the law of the State in which the polling place is located.”.

“(c) CONGRESSIONAL GENERAL ELECTION.—

Section 25 of the Revised Statutes (2 U.S.C. 7) is amended—

(A) by redesignating section 25 as section 25A; and

(b) by inserting before section 25A the following:

“SEC. 25. POLLING PLACE HOURS IN THE CONTINENTAL UNITED STATES.

“(a) Definitions.—In this section:

“(1) CONTINENTAL UNITED STATES.—The term ‘continental United States’ means a State (other than Alaska and Hawaii) and the District of Columbia.

“(2) CONGRESSIONAL GENERAL ELECTION.—

The term ‘congressional general election’ means the election for the office of Senator or Representative in Congress or Delegate or Resident Commissioner to, the Congress.

“(b) Polling Place Hours.—

“(1) IN GENERAL.—Each polling place in the continental United States shall be open, with respect to a congressional general election, beginning on Saturday at 6:00 p.m. eastern standard time and ending on Sunday at 6:00 p.m. eastern standard time.

“(2) EARLY CLOSING.—A polling place may close between the hours of 12:00 p.m. (midnight) and 5:00 a.m. local time as provided by the law of the State in which the polling place is located.”.

“(c) Conforming Amendments.—

(1) The table of sections for chapter 1 of title 3, United States Code, is amended by striking the item relating to section 25 and inserting the following:

“S. 144

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

SEC. 1. SHORT TITLE.

This Act may be cited as the “Weekend Voting Act”.

SEC. 2. CHANGE IN CONGRESSIONAL ELECTION DAY TO SATURDAY AND SUNDAY.

Section 25 of the Revised Statutes (2 U.S.C. 7) is amended to read as follows:

SEC. 25. The first Saturday and Sunday after the first Monday in November, in every even numbered year, are established as the date of the election in each of the States and Territories of the United States, of Representatives and Delegates to the Congress commencing on the 3d day of January thereafter.

SEC. 3. CHANGE IN PRESIDENTIAL ELECTION DAY TO SATURDAY AND SUNDAY.

Section 1 of title 3, United States Code, is amended by striking “Tuesday next after the first Monday” and inserting “first Saturday and Sunday after the first Friday”.

SEC. 4. POLLING PLACE HOURS IN CONTINENTAL UNITED STATES.

(a) IN GENERAL.—

(1) PRESIDENTIAL GENERAL ELECTION.—

Chapter 1 of title 3, United States Code, is amended—

(A) by redesignating section 1 as section 1A; and

(B) by inserting before section 1A the following:

“1. Polling place hours in continental United States

“(a) Definitions.—In this section:

“(1) CONTINENTAL UNITED STATES.—The term ‘continental United States’ means the States (other than Alaska and Hawaii) and the District of Columbia.

“(2) PRESIDENTIAL GENERAL ELECTION.—The term ‘Presidential general election’ means the election for electors of President and Vice President.

“(b) Polling place hours.—

“(1) IN GENERAL.—Each polling place in the continental United States shall be open, with respect to a Presidential general election, beginning on Saturday at 6:00 p.m. eastern standard time and ending on Sunday at 6:00 p.m. eastern standard time.

“(2) EARLY CLOSING.—A polling place may close between the hours of 12:00 p.m. (midnight) and 5:00 a.m. local time as provided by the law of the State in which the polling place is located.”.

“(c) CONGRESSIONAL GENERAL ELECTION.—

Section 25 of the Revised Statutes (2 U.S.C. 7) is amended—

(A) by redesignating section 25 as section 25A; and

(b) by inserting before section 25A the following:

“SEC. 25. POLLING PLACE HOURS IN THE CONTINENTAL UNITED STATES.

“(a) Definitions.—In this section:

“(1) CONTINENTAL UNITED STATES.—The term ‘continental United States’ means a State (other than Alaska and Hawaii) and the District of Columbia.

“(2) CONGRESSIONAL GENERAL ELECTION.—

The term ‘congressional general election’ means the election for the office of Senator or Representative in Congress or Delegate or Resident Commissioner to, the Congress.

“(b) Polling Place Hours.—

“(1) IN GENERAL.—Each polling place in the continental United States shall be open, with respect to a congressional general election, beginning on Saturday at 6:00 p.m. eastern standard time and ending on Sunday at 6:00 p.m. eastern standard time.

“(2) EARLY CLOSING.—A polling place may close between the hours of 12:00 p.m. (midnight) and 5:00 a.m. local time as provided by the law of the State in which the polling place is located.”.

“(c) Conforming Amendments.—

(1) The table of sections for chapter 1 of title 3, United States Code, is amended by striking the item relating to section 25 and inserting the following:
Mr. ALLARD. The emphasis here must be on the process, democratic, deliberative, and responsive to the electorate, not to just appointed judges and lawyers. We want the American public to have a say in this debate. Courtrooms are not the place for this important decision about the most fundamental institution of mankind, and that is the definition of marriage. Courts should interpret the law, not write it.

So we are eager to begin to have hearings, to talk about the research, to debate and have constructive dialog on this very important issue. It is important to the American people. It is important we continue to move forward with the momentum that has evolved as a result of our debate last year and the evolution of the elections of this past fall. I am excited about introducing the Marriage Protection Amendment, which is exactly the same amendment we debated on the floor of the Senate last year.

Mr. President, before I wrap up, I ask unanimous consent that Senator CORBURN be added as an original cosponsor and Senator STEVENS be added as an original cosponsor.

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

Mr. ALLARD. Again, in conclusion, I thank the leadership for their support and my colleagues for their support on this particular amendment. We had a number of elections for Senate seats where this was a very important issue and critical to the election of many of our new Members in the Senate. We have at least five votes that have switched as a result of this election. I think that is the American people having an opportunity to speak their mind.
I can say, this amendment is to protect the voice of the American people. The proper way to have this debate is in the legislative bodies of America. That includes the Congress and each and every legislature.

Agree, I am an advocate for his leadership on this particular issue. I also thank my colleagues who showed up at the press conference this morning to talk about this issue, particularly Senator SANTORUM, Senator HUTCHISON, Senator SESSIONS, and Senator THUNE who joined me in the press conference. I thank them for their leadership this morning in that press conference.

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

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

S. J. Res. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution of the United States, which shall be connoted by the name of: 

"ARTICLE --

"SECTION 1. This article may be called the 'Marriage Protection Amendment'.

"SECTION 2. Marriage in the United States shall exist only between a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman."

By Mr. CRAIG:

S. J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States relative to require a balanced budget and protect Social Security surplus; to the Committee on the Judiciary.

Mr. CRAIG. Mr. President, today I am reintroducing the Balanced Budget Amendment to the Constitution of the United States. When we were in deficit and world we were in surplus, I have always said, if we could adopt one fundamental reform to the way the Federal Government does business, this is it. The fiscal events of the last few years have again demonstrated the need for this long-term, fundamental, permanent reform.

For many Americans, one of the signs of our deep respect for the Constitution is our acknowledgment that, in exceptional cases, a problem rises to such a level that it can be adequately addressed—only in the Constitution—by way of a constitutional amendment.

From 1998 through 2001, Congress balanced the Federal budget. These four budget surpluses in a row, for the first time since the 1920s, set the modern record for balancing the Federal budget. The first Republican Congresses in 40 years made balancing the budget our top priority, and did what was necessary, reaching across the aisle and working on a bipartisan basis. We ran surpluses and began the process we needed to pay down the national debt. This in turn promised, among other things, to help us safeguard the future of Social Security.

Then, events intervened.

A return to budget deficits was caused by an economic recession and a war begun by terrorist attacks. Even before taking office in 2001, President Bush correctly foresaw the coming reprimand. He prescribed the right medicine—the tax relief that has bolstered the economy and has saved and created jobs. The current economic recovery, in turn, has prevented even worse Federal budget deficits.

The return to deficit spending can and should be a temporary phenomenon. We are rebounding from the recession of 2001 and the body blow to the economy caused by the war with terrorism.

We must do whatever it takes to win that war. Providing for the self-defense and survival of our people and our Nation is the most fundamental responsibility of the Federal Government. That principle has been reflected in every single one of our balanced budget constitutional amendments, in exceptions for war and imminent military threats. Historically, that principle was followed even when balancing the budget was the norm, because the U.S. Constitution was always preserved, when necessary to fight and win a war.

Beyond that, we must keep all other Federal spending under control, so that we return, as soon as possible, to balancing the budget.

In other words, the return to deficit spending will be a temporary problem only if we make a permanent commitment to the moral imperative of fiscal responsibility.

We always did, and always will, need a balanced budget amendment to our Constitution.

Even in the heady days of budget surpluses, I always maintained the only way to guarantee that the Federal Government would stay fiscally responsible was to add a balanced budget amendment to our Constitution.

Before we balanced the budget in 1998, the Government was deficit spending for 28 years in a row and for 59 out of 67 years. The basic law of political economy—"it always has been, it always will be"—was not repealed in 1998, but only restrained some, when we came together and briefly faced up to the great threat to the future posed by decades of debt. Now, the Government is back to borrowing. And for some, a return to deficit spending seems to have been liberating, as the demands for new spending only seem to be multiplying again.

That is why, today, I am again introducing a balanced budget amendment to the Constitution and calling upon my colleagues to send it to the States for ratification.

The amendment I introduce today is the same one I sponsored in the 108th Congress. This is essentially the same as the amendment that came within a single vote of the two-thirds necessary for passage, twice in two previous Sessions. In addition, this amendment would not count the Social Security surplus in its calculation of a balanced budget. Those amendments would be set aside exclusively to meet the future needs of Social Security beneficiaries.

It's a new day, a new year, and a new Senate. We have the opportunity of a fresh start and, hopefully, the wisdom of experience. Today, with the first piece of legislation I am introducing in the 109th Congress, I call on the Senate to safeguard the future, by considering and passing a balanced budget amendment to the Constitution, a bill of economic rights for our future and our children.

I ask unanimous consent that a copy of this joint resolution, proposing a balanced budget amendment to the Constitution, be printed in the RECORD.

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

S. J. Res. 2

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution of the United States, which shall be connoted by the name of: 

"ARTICLE --

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for the payment of debt principal.

"SECTION 2. The President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 3. The Congress may waive the requirement of this section by a rollcall vote.

"SECTION 4. The President, in proposing or submitting a bill of economic rights to the Congress for consideration, shall submit, in connection with such bill, a statement to the Congress setting forth, in detail, the amount of the economic rights to which such bill is directed, together with a statement of the anticipated effect of the economic rights on the Federal Government for any fiscal year, and a rollcall vote.

"SECTION 5. The Congress may, by rollcall vote, change the amount of the economic rights to which such bill is directed, and the amount of the economic rights so changed shall be written in the body of the bill and shall be the amount of the economic rights to which such bill is directed.

"SECTION 6. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 7. The Congress may waive the provisions of this article for any fiscal year.
in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes a tide of serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"Section 8. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"Section 9. This article shall take effect the second fiscal year beginning after its ratification.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 7—RELATING TO THE DEATH OF HOWARD S. LIEBENGOOD, FORMER SERGEANT AT ARMS OF THE SENATE

Mr. PRIST (for himself, Mr. ALXANDER, Mr. DOMENICI, Mr. COCHRAN, Mr. HAGEL, Mr. WARNER, Mr. BIDEN, Mr. HARRY, Mr. DOHRN, Mr. DODD, and Mr. GRAHAM) submitted the following resolution; which was considered and agreed to:

S. RES. 7

Whereas Howard S. Liebengood served as a captain in the United States Army Military Police Corps in Vietnam from 1968 to 1970, receiving the Bronze Star and the Army Commendation Medal for his exemplary service;

Whereas Howard S. Liebengood began his service to the Senate in 1973 as minority counsel to the Senate Watergate Committee;

Whereas Howard S. Liebengood served as an aide to the Senate Church Committee in 1974; as counsel to the Senate Watergate Committee in 1974; as legislative counsel to Senate Majority Leader Howard H. Baker, Jr., in 1980; as Sergeant at Arms of the Senate from 1981 to 1993;

Whereas Howard S. Liebengood served as Sergeant at Arms of the Senate from 1981 to 1983;

Whereas Howard S. Liebengood served as chief of staff to Senator Fred Thompson from 2001 to 2003, and as chief of staff to Senator Majority Leader William H. Frist, M.D., from 2003 until his death in January, 2005;

Whereas Howard S. Liebengood was a caring and devoted husband, father, and colleague who served with the utmost humility and distinction and was admired and respected by all as a teacher, adviser, and friend; and

Whereas Howard S. Liebengood inspired others through his personal leadership, integrity, and great love for the United States; Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Senate has heard with profound sorrow and deep regret the announcement of the death of Howard S. Liebengood; and

(2) the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolee copy of these resolutions to the family of Howard S. Liebengood.

SENATE RESOLUTION 8—EXPRESSING THE SENSE OF THE SENATE REGARDING THE MAXIMUM AMOUNT OF A FEDERAL PELL GRANT

Ms. COLLINS (for herself, Mr. FEINGOLD, and Mr. COLEMAN) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 8

Whereas public investment in higher education yields a return of several dollars for each dollar invested;

Whereas higher education promotes economic opportunity and recipients of bachelor's degrees earn 73 percent more in lifetime earnings than those with only a secondary school diploma and are also significantly less likely to be unemployed;

Whereas access to a college education has become a symbol of American society, and is vital to upholding our belief in equality of opportunity;

Whereas for a generation, the Federal Pell Grant has served as an established and effective means of providing access to higher education;

Whereas when viewed in constant dollars, the value of today's Pell Grant maximum award has actually declined by 16 percent since the mid 1970s;

Whereas grant aid as a portion of student aid has fallen significantly in the past 30 years;

Whereas in 1975, grant aid constituted approximately 80 percent of total student aid awarded to college students and awards constituted only 17 percent, now this has reversed with grants making up only 38 percent, and loans covering 56 percent of total student aid; and

Whereas the increasing reliance on borrowing to finance a higher education is particularly burdensome on low-income families and has negative consequences for the enrollment of these students.

Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the maximum Federal Pell Grant for which a student should be eligible during award year 2005-2006 should be $4,500; and

(2) the authorized levels for the Federal Pell Grant maximum amount found in section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) should be set high enough to accommodate a Federal Pell Grant amount of $9,000 by award year 2010-2011.

Ms. COLLINS. Mr. President, I rise today to introduce the first piece of legislation that I will sponsor in the 109th Congress, which I believe is vital to upholding our belief in equality of opportunity.

That it is the sense of the Senate that—

(1) the maximum Federal Pell Grant for which a student should be eligible during award year 2005-2006 should be $4,500; and

(2) the authorized levels for the Federal Pell Grant maximum amount found in section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) should be set high enough to accommodate a Federal Pell Grant amount of $9,000 by award year 2010-2011.

Ms. COLLINS. Mr. President, I rise today to introduce the first piece of legislation that I will sponsor in the 109th Congress. They each have been a leader in the effort to expand access to higher education.

That does not surprise me. Many working families in Maine are committed to living within their means. Understandably, they are extremely concerned about the growing reliance on loans bring about negative consequences. The staggering amount of loans can force some students to abandon their plans to attend college altogether. According to the College Board, low-income families are significantly less willing, by almost 50 percent, to finance a college education through borrowed money than their wealthier counterparts.

That is not enough. Many working families in Maine are committed to living within their means. Understandably, they are extremely concerned about the growing reliance on loans bring about negative consequences. The staggering amount of loans can force some students to abandon their plans to attend college altogether. According to the College Board, low-income families are significantly less willing, by almost 50 percent, to finance a college education through borrowed money than their wealthier counterparts.

That is not enough. Many working families in Maine are committed to living within their means. Understandably, they are extremely concerned about the growing reliance on loans bring about negative consequences. The staggering amount of loans can force some students to abandon their plans to attend college altogether. According to the College Board, low-income families are significantly less willing, by almost 50 percent, to finance a college education through borrowed money than their wealthier counterparts.
sees them. That is why Pell grant aid is so important for low-income families. For these families, loans don’t always work, but Pell does."

I also heard from Judy Kenney from Northern Maine about the importance of Pell grants. Her daughter and son both were able to attend college with the help of Pell grants. Judy lives in Castle Hill, not far from my hometown of Caribou. Her daughter and son both were able to attend college with the help of Pell grants. As she told me, “At the time, my husband Maylen was farming and having a rough go of it and I was a teacher and make much. But the Pell grants my children received made it possible for them to graduate, one from the University of New England and one from Thomas College. Without these grants, they couldn’t have finished and now they are making good wages and paying taxes!”

Judy couldn’t be more right on both counts. Not only can the typical bachelor’s degree recipient expect to earn about 73 percent more over a lifetime than if they graduated, they also typically contribute 100 percent more in Federal income taxes than the average high school graduate. So this is truly a Federal investment that pays for itself over the long run.

We know that having a well-educated workforce is crucial to our economic future and competitiveness in the global economy. The Bureau of Labor Statistics has projected that over the next 10 years, there will be significant job openings requiring at least some post-secondary education. So increasingly, higher education is going to be necessary to ensure employability and to prepare Americans to participate in tomorrow’s economy.

Pell grants make the difference in whether students have access to higher education, and a chance to participate fully in the American dream. That is why today I am introducing a resolution calling on the Senate to begin restoring the value of the Pell grant program.

This resolution calls on the Senate to raise the Pell maximum grant award to $4,500, a $450 increase in a single year. This increase is long overdue. The maximum grant award has been essentially frozen for the past three years in a row. During this period, the college-age population has continued to expand, state and institutional investments in higher education, and family savings have been diminished by economic losses. Increasing the Pell Grant maximum award is an essential and necessary component of keeping college possible for these students.

Increasing the Pell Grant maximum award by $450 is vitally important to the millions of college students who have seen no increase in their grants for the past three years in a row. This resolution calls on the Senate to adopt this legislation, which paves the way toward achieving increased support for students seeking to finance a college education.

The Pell Grant program is one of the most successful programs that the federal government has ever initiated. It has financed the education of millions of college students who are now contributing members of society—doctors, teachers, mayors, and members of Congress. It is rooted in the abiding American value that one’s aspirations—not one’s income—should determine the shape of one’s future.

Passage of the Collins-Feingold resolution will signal Congress’ interest in and support for America’s neediest students. We encourage you to support this important legislation.

Sincerely,

DAVID WARREN,
Co-Chair.

DAVID WARD,
Co-Chair.

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

2005 LIST OF MEMBERS

American Association for Higher Education
American Association of Colleges for Teacher Education
American Association of Colleges of Nursing
American Association of Colleges of Pharmacy
American Association of Collegiate Registrars and Admissions Officers
American Association of Community Colleges
American Dental Education Association
American Association of State Colleges and Universities, and the National Association of Student Financial Aid Administrators, to name just a few. I am pleased to have their support.

Mr. President, now is the time for us to make a commitment to raising the Pell maximum award to $4,500 for the upcoming award year. The Pell grant program is the foundation of making good on the American promise of access to higher education. I hope that my colleagues will join me in supporting this resolution.

I ask unanimous consent to have the letter to which I referred printed in the RECORD.

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

S368 CONGRESSIONAL RECORD — SENATE January 24, 2005

STUDENT AID ALLIANCE, Washington, DC, January 24, 2005.

Re support for Collins-Feingold Resolution on Pell Grants

DEAR SENATOR: The Student Aid Alliance, a coalition of over 60 higher education associations representing students, parents, colleges and universities, supports the passage of the Collins-Feingold resolution to increase the Pell Grant maximum award to $4,500 in the 2005-06 award year, and to double the maximum over the next 5 years. We urge the Senate to adopt this legislation, which paves the way toward achieving increased support for students seeking to finance a college education.

The Pell Grant program is one of the most successful programs that the federal government has ever initiated. It has financed the education of millions of college students who are now contributing members of society—doctors, teachers, mayors, and members of Congress. It is rooted in the abiding American value that one’s aspirations—not one’s income—should determine the shape of one’s future.

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and its values, represent the bedrock upon which our Nation continues to rely in these perilous and challenging times: Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) that the month of November should be designated as “National Military Family Month”; and

(2) that the President—

(A) designate the month of November as “National Military Family Month”; and

(B) issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Mr. INOUYE. Mr. President, today I rise to honor all our military families by introducing a resolution to designate November as National Military Family Month. As we all know, memories fade and the hardships experienced by our military families are easily forgotten unless they touch our own immediate family.

Today, we have our men and women deployed all over the world, engaged in this war on terrorism. These far-ranging military deployments are extremely difficult on the families who bear this heavy burden.

To honor these families, the Armed Services YMCA has sponsored Military Family Week in late November since 1996. However, due to frequent “short week” conflicts around the Thanksgiving holidays, the designated week has not always afforded enough time to schedule observance on and near our military bases.

I believe a month long observation will allow greater opportunity to plan events. Moreover, it will provide a greater opportunity to stimulate media support. A resolution will help pave the way for this effort. I ask my colleagues to join me in supporting this tribute to our military families.

SENATE CONCURRENT RESOLUTION 3—EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO THE MURDER OF EMMETT TILL

Mr. SCHUMER (for himself and Mr. TALENT) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 3

Whereas Emmett Till was born in Chicago, Illinois, at Cook County Hospital, on July 25, 1941, to Mamie and Louis Till;

Whereas Emmett Till traveled to Money, Mississippi, to spend the summer with his uncle, Moses Wright, and his relatives;

Whereas in August 1955, 14-year-old Emmett Till—on a bus trip from Chicago to Money, Mississippi—was brutally assaulted and murdered by Roy Bryant, Carolyn Bryant, and Milam; and

Whereas the remaining witnesses to this gruesome crime are elderly;

Whereas House Concurrent Resolution 390 entitled “Expressing the sense of Congress with respect to the murder of Emmett Till”, was introduced on February 10, 2004, by Representative Bobby Rush;

Whereas the Department of Justice reopened the investigation into the murder of Emmett Till on May 11, 2004; and

Whereas Congress supports the decision to reopen the investigation into the murder of Emmett Till: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

approves the decision to leave the casket open at her son’s funeral in Chicago, in order to allow the world to see the brutality of the crime perpetrated against her son;

Whereas tens of thousands of people viewed Emmett Till’s body in a Chicago church for 4 days; and press from around the world published photographs of Emmett’s “maimed face; and the sheer brutality of his murder became international news that highlighted the violent racism of the Jim Crow South;

Whereas Jet Magazine and the Chicago Defender published photographs of Emmett Till’s body outraged African-Americans around the United States;

Whereas the trial of J.W. Milam and Roy Bryant began in September of that year with an all-male, all-White jury, because African-Americans and women were banned from serving;

Whereas the trial of Milam and Bryant was a microcosm of the Jim Crow South: African-Americans were packed in a specific section of the courtroom balcony; the defendants’ families were seen laughing and joking with the prosecution and the jury; and food and snacks were passed out to White observers;

Whereas Moses Wright did the unthinkable as an African-American and openly accused the White defendants in public court of murdering his nephew;

Whereas Moses Wright was run out of town for his actions in court;

Whereas J.W. Milam and Roy Bryant were acquitted of the murder of Emmett Till, and Bryant celebrated his acquittal with his wife in front of the camera;

Whereas protected from further prosecution, Milam and Bryant candidly confessed their torture and murder of Emmett Till; Milam did so on the record to Look Magazine for $4,000;

Whereas Mamie Till and thousands of others pleaded with the Department of Justice and the Federal Bureau of Investigation to reopen and investigate the case;

Whereas the Federal Government did absolutely nothing, and President Eisenhower and FBI Director J. Edgar Hoover refused to reopen the case and did not even answer Mamie Till’s urgent telegraph;

Whereas 100 days later, Rosa Parks refused to give up her bus seat to a White patron and the modern civil rights movement began;

Whereas many historians regard the murder of Emmett Till as the true spark of the civil rights movement;

Whereas Mamie Till, who died on January 6, 2003, moved back to Chicago, taught, and continued to talk about her son Emmett’s murder; and expressed her wishes for a full Federal investigation;

Whereas more than 40 years have passed since the murder of Emmett Till;

Whereas the remaining witnesses to this gruesome crime are elderly;

Whereas House Concurrent Resolution 390 entitled “Expressing the sense of Congress with respect to the murder of Emmett Till”, was introduced on February 10, 2004, by Representative Bobby Rush;

Whereas the Department of Justice reopened the investigation into the murder of Emmett Till on May 11, 2004; and

Whereas Congress supports the decision to reopen the investigation into the murder of Emmett Till: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

ASSOCIATION OF AMERICAN LAW SCHOOLS
ASSOCIATION OF AMERICAN MEDICAL COLLEGES
ASSOCIATION OF AMERICAN UNIVERSITIES
ASSOCIATION OF CATHOLIC UNIVERSITIES AND UNIVERSITIES
ASSOCIATION OF COMMUNITY COLLEGE TRUSTEES
ASSOCIATION OF GOVERNING BOARDS OF UNIVERSITIES AND COLLEGES
ASSOCIATION OF JESUIT COLLEGES AND UNIVERSITIES
CITIZEN’S SCHOLARSHIP FOUNDATION OF AMERICA
COALITION OF HIGHER EDUCATION ASSISTANCE ORGANIZATIONS
CUNY PERSONNEL ASSOCIATION FOR HUMAN RESOURCES
CUNY BOARD
COLLEGE PARENTS OF AMERICA
COUNCIL FOR ADVANCEMENT AND SUPPORT OF EDUCATION
COUNCIL FOR CHRISTIAN COLLEGES AND UNIVERSITIES
COUNCIL FOR HIGHER EDUCATION ACCREDITATION
COUNCIL OF GRADUATE SCHOOLS
COUNCIL OF INDEPENDENT COLLEGES
COUNCIL FOR OPPORTUNITY IN EDUCATION
EDUCATIONAL TESTING SERVICE
HISPANIC ASSOCIATION OF UNIVERSITIES AND UNIVERSITIES
LUTHERAN EDUCATIONAL CONFERENCE OF NORTH AMERICA
NAFSA: ASSOCIATION OF INTERNATIONAL EDUCATORS
NATIONAL ASSOCIATION FOR COLLEGE ADMISSIONS COUNSELING
NATIONAL ASSOCIATION FOR EQUAL OPPORTUNITY IN HIGHER EDUCATION
NATIONAL ASSOCIATION OF COLLEGE AND UNIVERSITY BUSINESS OFFICERS
NATIONAL ASSOCIATION OF GRADUATE AND PROFESSIONAL STUDENTS
NATIONAL ASSOCIATION OF INDEPENDENT COLLEGES AND UNIVERSITIES
NATIONAL ASSOCIATION OF STATE STUDENT GRANT AND AID PROGRAMS
NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRADE COLLEGES
NATIONAL ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS
NATIONAL ASSOCIATION OF STUDENT PERSONNEL ADMINISTRATORS
NATIONAL COLLEGE ACCESS NETWORK
NATIONAL COLLEGIATE ATHLETIC ASSOCIATION
NATIONAL COUNCIL FOR COMMUNITY AND EDUCATION PARTNERSHIPS
NATIONAL COUNCIL OF UNIVERISITY RESEARCH ADMINISTRATORS
NATIONAL EDUCATION ASSOCIATION
NAWE: ADVANCING WOMEN IN HIGHER EDUCATION
THE COUNCIL ON GOVERNMENT RELATIONS
UNITED NEGRO COLLEGE FUND
UNITED STATES PUBLIC INTEREST RESEARCH GROUP
UNITED STATES STUDENT ASSOCIATION
UNIVERSITY CONTINUING EDUCATION ASSOCIATION
WOMEN’S COLLEGE COALITION

SENATE RESOLUTION 9—EXPRESSING THE SENSE OF THE SENATE REGARDING DESIGNATION OF THE MONTH OF NOVEMBER AS “NATIONAL MILITARY FAMILY MONTH”

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

S. RES. 9

Whereas military families, through their sacrifice and dedication to our Nation and its values, represent the bedrock upon which our Nation was founded and upon which we can build a better future;
(A) expeditiously bring those responsible for the murder of Emmett Till to justice, due to the amount of time that has passed since the murder and the age of the witnesses; and (B) provide all the resources necessary to ensure a timely and thorough investigation; and (2) calls on the Department of Justice to fully report the findings of their investigation to Congress.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN, Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, January 26, 2005, at 10:30 a.m. in room 405 of the Russell Senate Office Building to conduct a business meeting to consider the Committee budget resolution and proposed changes to the Committee rules and any other organizational business the committee needs to attend to.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. MCCAIN, Mr. President, I would like to announce for the information of the Senate and the public that the over-sight hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, February 8, 2005, at 10 a.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to review the implementation of Titles I through III of P.L. 106-366 of the Dirksen Senate Office Building.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of the testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

Further information, please contact Frank M. Gladics at 202-224-2878 or Amy Millet at 202-224-4276.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. President, I announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a business meeting on January 26, 2005, in SR-332 at 10 a.m. The purpose of this meeting will be to discuss the organization of the Committee for the 109th Congress.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON VETERANS’ AFFAIRS

Mr. STEVENS, Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be authorized to meet during the session of the Senate on Monday, January 24, 2005, for a hearing to consider the nomination of: Mr. R. James Nicholson to be Secretary of Veterans’ Affairs.

The hearing will take place in room 418 of the Russell Senate Office Building at 10:00 A.M.

A markup on Mr. Nicholson’s nomination will take place in room 418 of the Russell Senate Office Building at 2:00 P.M.

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

ORDERS FOR TUESDAY, JANUARY 25, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. on Tuesday, January 25. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period of morning business for up to 60 minutes with the first half of the time under the control of the majority leader or his designee and the remaining time under the control of the Democratic leader or his designee; provided that following morning business, the Senate proceed to executive session as provided under the previous order.

I further ask that the Senate recess tomorrow from 12:30 p.m. until 2:15 for the weekly party lunchees. The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow, following morning business, the Senate will begin debate on the nomination of Condoleeza Rice to be Secretary of State. Under the order, there will be up to 9 hours of debate on the nomination during tomorrow’s session with a short period of additional debate on Wednesday, prior to a vote on confirmation. In addition, the nominee of Mr. Richard B. Fisher, Mr. Jim Nicholson to be Secretary of Veterans Affairs was reported today. The Senate may act on that nomination and any other nomination that is available during the remainder of this week.

We are working across the aisle together, at the committee level and on the floor level, to consider these nominations just as soon as they are made available.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, as a further mark of respect for Howard S. Liebengood.

There being no objection, the Senate, at 7:16 p.m. adjourned until Tuesday, January 25, 2005, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate January 24, 2005:

DEPARTMENT OF AGRICULTURE

THOMAS C. DORN, OF IOWA, TO BE UNDER SECRETARY OF AGRICULTURE FOR RURAL DEVELOPMENT. VICE JILL L. LONG, RESIGNED.

THOMAS C. DORN, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF FIDELITY NATIONAL FINANCIAL CORPORATION. VICE JILL L. LONG, RESIGNED.

DEPARTMENT OF DEFENSE

PETER CYRIL WYCHERFLY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE. VICE ELIZABETH P. DODGE.

ALAN WOODLEY, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY. VICE MICHAEL PARKER.

MAURICE J. PENN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY. VICE R. T. JOHNSON.

NATIONAL SECURITY EDUCATION BOARD

ANDREW J. MUKENNA, JR., OF IOWA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS. VICE ROBERT N. HAMAN, Term Expires January 28, 2009.

GEORGE M. DENNISON, OF MONTANA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS. VICE BRIAN BRUNSELL, Term Expires January 28, 2009.

JAMES WILLIAM CALL, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS. VICE MANUEL TRUJILLO PACIFICOS, Term Expires January 28, 2009.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT


FEDERAL HOUSING FINANCE BOARD

DONALD ROSENFIELD, OF OKLAHOMA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM OF FOUR YEARS. VICE JOHN THOMAS KORSMO, RESIGNED.

NATIONAL INSTITUTE OF BUILDING SCIENCES


AMTRAK

FLOYD BALL, OF NEW JERSEY, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. VICE AMY M. ROSEN, Term Expires September 7, 2009.

AMTRAK REFORM BOARD

ENRIQUE J. SOSA, OF FLORIDA, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS. VICE LINWOOD HOLTON, Term Expires September 7, 2009.

ENIRONMENTAL PROTECTION AGENCY

THOMAS V. SKINNER, OF ILLINOIS, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY. VICE JOHN PETER SCABREY, RESIGNED.

LUIS LUNA, OF MARYLAND, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY. VICE MORRIS W. WISE, RESIGNED.

MISSISSIPPI RIVER COMMISSION

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION


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ENIRONMENTAL PROTECTION AGENCY
BROADCASTING BOARD OF GOVERNORS

KENNETH Y. TOMLISON, OF VIRGINIA, TO BE CHAIRMAN OF THE BROADCASTING BOARD OF GOVERNORS. (REAPPOINTMENT)

D. JEFFREY HERRIGER, OF WISCONSIN, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2007. (REAPPOINTMENT)

KENNETH Y. TOMLISON, OF VIRGINIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2007. (REAPPOINTMENT)

EXECUTIVE OFFICE OF THE PRESIDENT

JORG E. PLAASSENIA, OF FLORIDA, TO BE A MEMBER OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR A TERM EXPIRING OCTOBER 27, 2006. VICE JOSEPH FRANCIS GLENNON, TERM EXPIRED.

INTER-AMERICAN FOUNDATION

ROGER W. WALLACE, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2006. VICE FEED P. DUVAL,

JACK VAUGHN, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 28, 2006. VICE PATRICIA HILL, WILLIAMS, TERM EXPIRED.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

JAY T. SNYDER, OF NEW YORK, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2007. (REAPPOINTMENT)

DEPARTMENT OF STATE

DAVID B. RALTON, OF THE DISTRICT OF COLUMBIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS AND FISHERIES. (NEW POSITION)

J. R. DETRANI, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL ENVOY FOR THE SIX PARTY TALKS. (NEW POSITION)

JOHN THOMAS SCHEIFFER, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO JAPAN.

DEPARTMENT OF EDUCATION

CRAIG T. RAMEY, OF WEST VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD OF REGENTS FOR EDUCATION SCIENCES FOR A TERM OF TWO YEARS. (NEW POSITION)

NATIONAL MUSEUM AND LIBRARY SERVICES BOARD

A. WILSON GREENE, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 4, 2006. (REAPPOINTMENT)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

HARRY ROBINSON, JR., OF TEXAS, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 4, 2008. (REAPPOINTMENT)

NATIONAL MUSEUM AND LIBRARY SERVICES BOARD

KATINA P. STRAUSS, OF SOUTH CAROLINA, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 4, 2008. VICE ELIZABETH J. FURTH, TERM EXPIRING.

LEGAL SERVICES CORPORATION

THOMAS A. FUENTES, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 15, 2005. VICE THOMAS P. SMERAL, JR., TERM EXPIRED.

SERVICE PHILIPS, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 15, 2005. VICE MARIA LUISA MERCADO, TERM EXPIRED.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

GEORGE PERCIVE, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING NOVEMBER 5, 2006. VICE CARBONIA A. CAMPBELL, JR., TERM EXPIRED.

NATIONAL LABOR RELATIONS BOARD

DONALD E. MEINBURG, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR A TERM OF FIVE YEARS EXPIRING AUGUST 27, 2010. VICE RENE ACOSTA, TERM EXPIRED.

NATIONAL SECURITY EDUCATION BOARD

KIRON KANINA SKINNER, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS. VICE HERSHEY MILLER, JR., CHALLENGE.

BARRY GOLDBERG

WATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

CHARLES P. BUCH, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDBERG WATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING AUGUST 10, 2010. VICE NARIJAN SHAMALBHAI SHAH, TERM EXPIRED.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

EDWARD L. FLIPPEN, OF VIRGINIA, TO BE INSPECTOR GENERAL, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

BRIAN DAVID MILLER, OF VIRGINIA, TO BE INSPECTOR GENERAL, GENERAL SERVICES ADMINISTRATION.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

ALLEN WEINSTEIN, OF MARYLAND, TO BE ARCHIVIST OF THE UNITED STATES, VICE JOHN W. CARLIN.

UNITED STATES POSTAL SERVICE

CAROLYN L. GALLAGHER, OF TEXAS, TO BE GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 8, 2010. VICE LOUIS J. GIULIANO, TERM EXPIRED.

POSTAL RATE COMMISSION

TONY HAMMOND, OF VIRGINIA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR A TERM EXPIRING OCTOBER 14, 2006. (REAPPOINTMENT)

UNITED STATES POSTAL SERVICE

LOUIS J. GIULIANO, OF NEW YORK, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2010. (REAPPOINTMENT)

DEPARTMENT OF JUSTICE

STEPHEN THOMAS CONGOY, OF VIRGINIA, TO BE A MEMORIAL CHIEF OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2004. (REAPPOINTMENT)

FOREIGN CLAIMS SETTLEMENT COMMISSION

DAVID B. BIVIN, JR., OF VIRGINIA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION FOR A TERM EXPIRING SEPTEMBER 30, 2007. VICE LARAMIR FAITH MCNAMARA.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JAMES B. AHN, OF FLORIDA

DAVID ADAMS ATWOOD, OF VIRGINIA

CAROL BECKER, OF MARYLAND

JEFF BOUNS, OF MARYLAND

ROBERT STEPHEN BRIND, OF MARYLAND

CLIFFORD H. BROWN, OF WASHINGTON

LADY R. CASSIDY, OF CONNECTICUT

FRANCIS ALOYSIUS DONOVAN, OF MARYLAND

FAROOL FASCHIN PUCKNO, OF MARYLAND

KAREN L. FREEMAN, OF VIRGINIA

MICHAEL T. FRITZ, OF WYOMING

EARL W. GAST, OF CALIFORNIA

RICHARD S. GHIRE, OF VIRGINIA

WALTER M. KENDRICK, OF VIRGINIA

HENDERSON M. PATRICK, OF FLORIDA

CARL ADOU DHAMAAN, OF MARYLAND

JAMES H. REDDER, OF NEW YORK

TOM C. KIDGER, OF CALIFORNIA

MONICA STEIN-OLSON, OF WASHINGTON

LEO S. WASKINS, OF VIRGINIA

ROBERT J. WILSON, OF CONNECTICUT

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION WITHIN AND INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR:

FREDERICK S. FERNANDEZ, OF NEW YORK

FRANKLIN D. LEE, OF VIRGINIA

MINNIE J. ROBERTS, OF MICHIGAN

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER COUNSELOR:

MAURICE W. HOUSE, OF TENNESSEE

M. KATHERINE TINN, OF FLORIDA

HOWARD E. WHITEL, OF VIRGINIA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR:

CHARLES T. ALEXANDER, OF VIRGINIA

EILEEN S. BERRY, OF VIRGINIA

DAVID BIVIN, JR., OF VIRGINIA

CARLOS M. GUTIERREZ, OF MICHIGAN

DONALD R. CLARK, OF NEW HAMPSHIRE

OLIVER CHARLES CARDUNER, OF VIRGINIA

CONFIRMATION

Executive nomination confirmed by the Senate Monday, January 24, 2005:

DEPARTMENT OF COMMERCE

CARLOS A. GUTIERREZ, OF MICHIGAN, TO BE SECRETARY OF COMMERCE.
EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, January 25, 2005 may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED

JANUARY 26

9:15 a.m. Environment and Public Works
Business meeting to consider pending business.
SD–406

9:30 a.m. Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

10 a.m. Agriculture, Nutrition, and Forestry
Organizational business meeting to consider an original resolution authorizing expenditures for committee operations, committee’s rules of procedure for the 109th Congress, and subcommittee assignments.
SR–332

10 a.m. Environment and Public Works
Clean Air, Climate Change, and Nuclear Safety Subcommittee
To hold hearings to examine multi-emissions legislation.
SD–406

10 a.m. Banking, Housing, and Urban Affairs
Organizational business meeting to consider an original resolution authorizing expenditures for committee operations, committee’s rules of procedure for the 109th Congress, and subcommittee assignments.
SD–538

Homeland Security and Governmental Affairs
To hold hearings to examine the Department of Homeland Security.
SD–342

Aging
To hold hearings to examine the risks and benefits associated with Internet pharmacy and importation.
SD–628

10:30 a.m. Indian Affairs
Business meeting to consider Committee budget resolution and proposed changes to the Committee rules.
SR–485

2:30 p.m. Intelligence
To receive a closed briefing on certain intelligence matters.
SH–219

FEBRUARY 1

10 a.m. Veterans’ Affairs
To hold hearings to examine certain issues relative to CIA document disclosure under the Nazi War Crimes Disclosure Act.
SD–226

FEBRUARY 3

10 a.m. Veterans’ Affairs
To hold hearings to examine benefits for survivors of those killed in the line of duty.
SR–418

11 a.m. Agriculture, Nutrition, and Forestry
To hold hearings to examine the effects of Bovine Spongiform Encephalopathy (BSE) on United States imports and exports of cattle and beef.
SD–106

FEBRUARY 8

10 a.m. Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine the implementation of Titles I through III of P.L. 106–393, The Secure Rural Schools and Community Self-Determination Act of 2000.
SD–366

FEBRUARY 10

9:30 a.m. Armed Services
To hold hearings to examine the proposed Defense Authorization Request for Fiscal Year 2006 and the Future Years Defense Program.
SH–216

FEBRUARY 15

10 a.m. Veterans’ Affairs
To hold hearings to examine the Administration’s proposed fiscal year 2006 Department of Veterans Affairs budget.
SR–418

MARCH 8

2 p.m. Veterans’ Affairs
To hold hearings to examine legislative presentation of the Disabled American Veterans.
345 CHOB

MARCH 9

10 a.m. Veterans’ Affairs
To hold hearings to examine legislative presentation of the Veterans of Foreign Wars.
SH–216

MARCH 10

10 a.m. Veterans’ Affairs
To hold hearings to examine legislative presentations of the Blinded Veterans Association, the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America and the Jewish War Veterans.
345 CHOB

APRIL 14

10 a.m. Veterans’ Affairs
To hold hearings to examine legislative presentations of the Military Officers Association of America, the National Association of State Director of Veterans Affairs, AMVETS, the American Ex-Prisoners of War, and Vietnam Veterans of America.
345 CHOB

APRIL 21

10 a.m. Veterans’ Affairs
To hold hearings to examine legislative presentations of the Fleet Reserve Association, the Air Force Sergeants Association, the Retired Enlisted Association, and the Gold Star Wives of America.
345 CHOB

SEPTEMBER 20

10 a.m. Veterans’ Affairs
To hold hearings to examine legislative presentations of the American Legion.
345 CHOB

POSTPONEMENTS

JANUARY 26

9:30 a.m. Judiciary
To hold hearings to examine pending judicial nominations.
SD–226

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
HIGHLIGHTS

Senate confirmed the nomination of Carlos M. Gutierrez, of Michigan, to be Secretary of Commerce.

Senate

Chamber Action

Routine Proceedings, pages S107–S371

Measures Introduced: One hundred-thirty bills and six resolutions were introduced, as follows: S. 6, 9, 11, 13–20, 24–25, 27, 29, 31–144, S.J. Res. 1–2, S. Res. 7–9, and S. Con. Res. 3. Pages S142–45

Measures Passed:

Honoring Howard S. Liebengood: Senate agreed to S. Res. 7, relating to the death of Howard S. Liebengood, former Sergeant at Arms of the Senate. Pages S107–09

Nomination—Agreement: A unanimous-consent-time agreement was reached providing for consideration of the nomination of Condoleezza Rice, of California, to be Secretary of State at 10:45 a.m., on Tuesday, January 25, 2005, with nine hours for debate; following which, when the Senate resumes consideration of the nomination on Wednesday, January 26, 2005, a vote on confirmation of the nomination will occur following 40 additional minutes for closing remarks.

Nominations Confirmed: Senate confirmed the following nominations:

Carlos M. Gutierrez, of Michigan, to be Secretary of Commerce. Pages S116–26, S371

Nominations Received: Senate received the following nominations:

Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development.

Thomas C. Dorr, of Iowa, to be a Member of the Board of Directors of the Commodity Credit Corporation.

Peter Cyril Wyche Flory, of Virginia, to be an Assistant Secretary of Defense.

John Paul Woodley, Jr., of Virginia, to be an Assistant Secretary of the Army.

Buddie J. Penn, of Virginia, to be an Assistant Secretary of the Navy.

Andrew J. McKenna, Jr., of Illinois, to be a Member of the National Security Education Board for a term of four years.

George M. Dennison, of Montana, to be a Member of the National Security Education Board for a term of four years.

James William Carr, of Arkansas, to be a Member of the National Security Education Board for a term of four years.

Pamela Hughes Patenaude, of New Hampshire, to be an Assistant Secretary of Housing and Urban Development.

Ronald Rosenfeld, of Oklahoma, to be a Director of the Federal Housing Finance Board for the remainder of the term expiring February 27, 2009.

William Hardiman, of Michigan, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 2006.

Floyd Hall, of New Jersey, to be a Member of the Reform Board (Amtrak) for a term of five years.

Enrique J. Sosa, of Florida, to be a Member of the Reform Board (Amtrak) for a term of five years.

Thomas V. Skinner, of Illinois, to be an Assistant Administrator of the Environmental Protection Agency.

Luis Luna, of Maryland, to be an Assistant Administrator of the Environmental Protection Agency.

Major General Don T. Riley, United States Army, to be a Member and President of the Mississippi River Commission.

D. Michael Rappoport, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2008.
Michael Butler, of Tennessee, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2008.

Raymond Thomas Wagner, Jr., of Missouri, to be a Member of the Internal Revenue Service Oversight Board for a term expiring September 14, 2009.

Harold Damelin, of Virginia, to be Inspector General, Department of the Treasury.

Daniel R. Levinson, of Maryland, to be Inspector General, Department of Health and Human Services.

Howard J. Krongard, of New Jersey, to be Inspector General, Department of State.

Nadine Hogan, of Florida, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring June 26, 2008.

Kenneth Y. Tomlinson, of Virginia, to be Chairman of the Broadcasting Board of Governors.

D. Jeffrey Hirschberg, of Wisconsin, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2007.

Kenneth Y. Tomlinson, of Virginia, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2007.

Jorge A. Plasencia, of Florida, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 2006.

Roger W. Wallace, of Texas, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring October 6, 2008.

Jack Vaughn, of Texas, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 2006.

Jay T. Snyder, of New York, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2007.

David B. Balton, of the District of Columbia, for the rank of Ambassador during his tenure of service as Deputy Assistant Secretary of State for Oceans and Fisheries.

Joseph R. DeTrani, of Virginia, for the rank of Ambassador during his tenure of service as Special Envoy for the Six Party Talks.

John Thomas Schieffer, of Texas, to be Ambassador to Japan.

Craig T. Ramey, of West Virginia, to be a Member of the Board of Directors of the National Board for Education Sciences for a term of two years.

A. Wilson Greene, of Virginia, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2009.

Harry Robinson, Jr., of Texas, to be a Member of the National Museum Services Board for a term expiring December 6, 2008.

Katina P. Strauch, of South Carolina, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2009.

Thomas A. Fuentes, of California, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2005.

Bernice Phillips, of New York, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2005.

George Perdue, of Georgia, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term expiring November 5, 2006.

Ronald E. Meisburg, of Virginia, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2008.

Kiron Kanina Skinner, of Pennsylvania, to be a Member of the National Security Education Board for a term of four years.

Charles P. Ruch, of South Dakota, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring August 11, 2010.

Edward L. Flippen, of Virginia, to be Inspector General, Corporation for National and Community Services.

Brian David Miller, of Virginia, to be Inspector General, General Services Administration.

Allen Weinstein, of Maryland, to be Archivist of the United States.

Carolyn L. Gallagher, of Texas, to be a Governor of the United States Postal Service for the remainder of the term expiring December 8, 2009.

Louis J. Giuliano, of New York, to be a Governor of the United States Postal Service for a term expiring December 8, 2005.

Tony Hammond, of Virginia, to be a Commissioner of the Postal Rate Commission for a term expiring October 14, 2010.

Louis J. Giuliano, of New York, to be a Governor of the United States Postal Service for a term expiring December 8, 2014.

Stephen Thomas Conboy, of Virginia, to be United States Marshal for the Superior Court of the District of Columbia for the term of four years.

David B. Rivkin, Jr., of Virginia, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 2007.

Routine lists in the Foreign Service. Pages S370–71

Executive Reports of Committees: Pages S141–42

Statements on Introduced Bills/Resolutions: Pages S146–S370

Additional Statements: Pages S140–41

Notices of Hearings/Meetings: Page S370
Authority for Committees to Meet: Page S370

Adjournment: Senate convened at 2:01 p.m., and as a further mark of respect to the memory of the late Howard S. Liebengood, former Sergeant at Arms of the Senate, and in accordance with S. Res. 7, adjourned at 7:16 p.m., until 9:45 a.m., on Tuesday, January 25, 2005. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S 370.)

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Committee Meetings

(Committees not listed did not meet)

BUSINESS MEETING

Committee on Veterans Affairs: Committee ordered favorably reported the nomination of Jim Nicholson, of Colorado, to be Secretary of Veterans Affairs. Prior to this action, committee concluded a hearing to examine the nomination of Jim Nicholson, of Colorado, to be Secretary of Veterans Affairs, after the nominee, who was introduced by Senators Allard and Salazar, testified and answered questions in his own behalf.

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House of Representatives

Chamber Action

The House was not in session today.

Committee Meetings

No committee meetings were held.

COMMITTEE MEETINGS FOR TUESDAY,
JANUARY 25, 2005

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Finance: business meeting to consider organizational matters; to be followed by a business meeting to consider the nomination of Michael O. Leavitt, of Utah, to be Secretary of Health and Human Services, 10 a.m., SD–215.

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House

Committee on Rules, to hold an organizational meeting, and to consider H.R. 54, Congressional Gold Medal Enhancement Act of 2005, 5 p.m., H–313 Capitol.
Next Meeting of the SENATE
9:45 a.m., Tuesday, January 25

Senate Chamber

Program for Tuesday: After the transaction of any morning business (not to extend beyond 60 minutes), Senate will consider the nomination of Condoleezza Rice, of California, to be Secretary of State, with a vote on confirmation of the nomination to occur following 9 hours of debate.

(Senate will recess from 12:30 p.m. until 2:15 p.m. for their respective party conferences.)