DURBIN) was added as a cosponsor of S. 1248, a bill to establish a servitude and emancipation archival research clearinghouse in the National Archives.

S. 1250

At the request of Mr. JEFFORDS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1250, a bill to reauthorize the Great Ape Conservation Act of 2000.

S. CON. RES. 37

At the request of Mr. DEWINE, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Colorado (Mr. SALAZAR), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. Con. Res. 37, a concurrent resolution honoring the life of Sister Dorothy Stang.

S. RES. 31

At the request of Mr. COLEMAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. Res. 31, a resolution expressing the sense of the Senate that the week of August 7, 2005, be designated as ''National Health Center Week'' in order to raise awareness of health services provided by community, migrant, public housing, and homeless health centers, and for other purposes.

S. RES. 39

At the request of Ms. LANDRIEU, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 39, a resolution apologizing to the victims of lynching and the descendants of those victims for the failure of the Senate to enact anti-lynching legislation.

S. RES. 165

At the request of Ms. SNOWE, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. Res. 165, a resolution congratulating the Small Business Development Centers of the Small Business Administration on their 25 years of service to America's small business owners and entrepreneurs.

AMENDMENT NO. 771

At the request of Mr. JEFFORDS, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of amendment No. 771 intended to be proposed to H.R. 6, a bill Reserved.

AMENDMENT NO. 783

At the request of Mr. NELSON of Florida, the names of the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of amendment No. 783 intended to be proposed to H.R. 6, a bill Reserved.

At the request of Mr. BURR, his name was added as a cosponsor of amendment No. 783 intended to be proposed to H.R. 6, supra.

AMENDMENT NO. 784

At the request of Ms. CANTWELL, the names of the Senator from Illinois (Mr. OBAMA), the Senator from Colorado (Mr. SALAZAR), the Senator from North Dakota (Mr. DORGAN), and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of amendment No. 784 proposed to H.R. 6, a bill Reserved.

AMENDMENT NO. 788

At the request of Mr. DEWINE, the names of the Senator from New York (Mr. SCHUMER), the Senator from Oregon (Mr. WYDEN), the Senator from Illinois (Mr. DURBIN), the Senator from Iowa (Mr. HARKIN), the Senator from South Carolina (Mr. GRAHAM), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 788 intended to be proposed to H.R. 6, a bill Reserved.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. VOINOVICH (for himself, Mr. AKAKA, Ms. COLLINS, Mr. DURBIN, and Mr. STEVENS):

S. 1255. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts paid on behalf of Federal employees and members of the Armed Forces on active duty under Federal student loan repayment programs; to the Committee on Finance.

Mr. VOINOVICH. Mr. President, today I rise to introduce the Generating Opportunity by Forgiving Educational Debt for Service Act of 2005, a bill that will help Federal agencies and the Armed Forces recruit talented individuals to serve in all areas of the Federal Government and the military. This legislation is a modestly expanded version of a bill I introduced in the 108th Congress.

Current law authorizes Federal agencies to pay student loans up to $10,000 a year with a cumulative cap of $60,000, but the incentive is taxed. Known as GOFEDS, this bill would amend the Federal tax code and allow the Federal Government's student loan repayment programs to be offered on a tax-free basis.

In recent years, many educational institutions have established programs that repay a portion of the student loan debt their graduates owe. These programs are designed to encourage students to seek jobs with government or non-profit organizations that cannot pay salaries commensurate with the private sector upon graduation. Under current law, the amounts these institutions offer their graduates as student loan repayment are not taxed as income, provided the recipients choose to work for the government or non-profit organizations.

Unfortunately, the Federal Tax Code does not treat the Federal Government's loan repayment programs in the same way, considering such loan repayment as taxable income to the employee. As a result, the net benefit of any such program is reduced by the amount of tax that the individual has to pay on the debt repaid. This bill would amend the tax code so that the Government does not continue to undermine its own loan repayment recruitment incentive. This change will help Federal agencies recruit and retain well-qualified graduates.

This Congress, I have expanded GOFEDS to our military because recent reports indicate that all four services missed their recruiting goals last year. Unfortunately, military recruiting levels are now at a 30-year low. Under GOFEDS, military education loan programs, like the Active-Duty Loan Repayment Program will be offered on a tax free basis.

With more than half of the Federal workforce eligible for retirement in the next 5 years and surveys showing that fewer Americans find government services attractive, the need for this legislation is even more necessary. I believe the cost of this bill is minimal, but its potential impact is great. I urge all of my colleagues to support this legislation and I am confident that it can be enacted this year.

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. 1255

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 ''Generating Opportunity by Forgiving Educational Debt for Service Act of 2005''.

SEC. 2. EXCLUSION FOR STUDENT LOAN REPAYMENTS BY THE FEDERAL GOVERNMENT.

(a) EXCLUSION FROM GROSS INCOME.—Section 108(f) of the Internal Revenue Code of 1986 (relating to student loans) is amended by adding at the end the following:

''(5) STUDENT LOAN REPAYMENTS BY FEDERAL GOVERNMENT.—In the case of an individual, gross income does not include any payments made by the Federal Government on behalf of such individual under—

''(A)(i) section 5379 of title 5, United States Code; or

''(ii) any other similar Federal program for its employees; or

''(B) section 510(e)(2), chapter 109, or chapter 1609 of title 10, United States Code.''.

(b) EXCLUSION FROM WAGES.—

(1) IN GENERAL.—Section 3121(a) of such Code (defining wages) is amended—

(A) in paragraph (21), by striking ''or'' at the end;

(B) in paragraph (22), by striking the period at the end and inserting ''; or''; and

(C) by inserting after paragraph (22) the following:

''(23) any payment excluded from gross income under section 108(f)(5) (relating to student loan repayments by the Federal Government).''.

(2) SOCIAL SECURITY ACT.—Section 209(a) of the Social Security Act (42 U.S.C. 409(a)) is amended by adding at the end the following:

''(20) Any payment excluded from gross income under section 108(f)(5) of the Internal Revenue Code of 1986 (relating to student loan repayments by Federal Government).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made on or after the date of enactment of this Act in taxable years ending after such date.

By Mr. BIDEN:

S. 256. A bill to require the Secretary of Homeland Security to develop regulations regarding the transportation of extremely hazardous materials, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BIDEN. Mr. President, I rise today to introduce the Hazardous Materials Vulnerability Reduction Act of 2005. It is regretful that I am introducing this legislation, as the Department of Homeland Security has all of the legal authorities necessary to undertake the steps set out in this legislation. However, nearly 4 years after September 11, the Department of Homeland Security is still not doing its job. Quite frankly, officials at the Department of Homeland Security are either unaware, or even worse, they are purposely ignoring a grave threat to our cities. Hazardous materials being transported by 90-ton rail tankers has been described as a ''uniquely dangerous'' threat—comparable only to a nuclear or biological attack. According to the Department of Homeland Security and the Department of Transportation, these materials pose special risks during transportation because their uncontrolled release can endanger significant numbers of people. In addition, there have been countless reports of lax security along the urban area rail routes they travel. Nevertheless, the administration has done nothing to reduce this threat. The legislation that I am introducing today will require the Department of Homeland Security to develop a comprehensive, risk-based strategy for reducing the threat of a terrorist attack on extremely hazardous materials in our Nation's high-threat cities. The steps set out in this legislation should have been taken years ago, but it is clear that the Department of Homeland Security will not act. I hope that my colleagues will join me in passing this legislation to require them to act.

Within just a few miles of where we stand right now, rail tankers carrying the world's most dangerous chemicals are being transported over tracks that are not sufficiently safeguarded or monitored. According to Richard A. Falkenrath, a former homeland security adviser to President Bush, this threat stands out ''as acutely vulnerable and almost uniquely dangerous.'' He is not alone in this opinion. The Homeland Security Council released a report in July 2004 indicating that an explosion, in an urban area, of a rail tanker carrying chlorine could kill up to 17,500 individuals and could require the hospitalization of nearly 100,000. An analysis by the Naval Research Laboratory depicted a more troubling scenario when it studied the potential for damage if an attack occurred while an event was being held on the National Mall, such as the annual Fourth of July celebration. According to this analysis, ''over 100,000 people could be seriously harmed or even killed in the first half hour.'' Let me say that again, according to a study by the Naval Research Laboratory ''over 100,000 people could be seriously harmed or killed in the first half hour.''

Terrorist groups already understand the potential impact of such an attack. The FBI and CIA have uncovered evidence that terrorists have targeted chemical shipments, and just a few months ago during testimony before the Senate Intelligence Committee, FBI Director Mueller indicated that threats to rail remain a key concern. This should not be a surprise. Rail systems are the most frequently attacked targets worldwide, and the wide open nature of their architecture makes them vulnerable at many points. In other words, rail systems present many soft targets. Incidentally, I have introduced separate legislation in the last three Congresses that would provide $1.2 billion to eliminate some of the vulnerabilities in our rail system; however, this legislation has not been supported by the Bush administration and it has not passed Congress. In fact, the administration has not asked for a single dime specifically for rail security. This is very troubling because we know that the modus operandi for many terrorist groups is to cause mass casualties and spectacular damage. According to the Chlorine Institute, an attack on a 90-ton tanker could create a toxic cloud 40 miles long and 10 miles wide. The Environmental Protection Agency estimates that in an urban area this toxic cloud could extend 14 miles. Can you imagine the psychological impact of a toxic cloud of poisonous gas expanding and moving slowly over one of our major metropolitan areas—leaving death and chaos in its path?

Given the potential damage and the direct threat against chemical rail tankers, you would think that the Bush administration has been busy reducing or eliminating this threat. Unfortunately, as with so many other areas involving our homeland security this does not appear to be the case. In January testimony before the Senate Homeland Security Committee, Mr. Falkenrath stated that ''to date, the Federal Government has not made a material reduction in the inherent vulnerability of hazardous chemical targets inside the United States.'' He went on to say that this should be the highest priority for the Department of Homeland Security. A Wall Street Journal article written last year—''Graffiti Artists Put Their Mark on War Against Terrorism''—provides a chilling example of the exposure of these chemical tankers. The reporter followed a graffiti artist to a railroad tunnel along tracks that run near I–395 not far from where we stand. As he was conducting the interview, a tanker carrying dangerous chemicals rolled by on an adjacent track. The graffiti artist noted that ''it wouldn't be hard at all for someone like Al Qaeda to wait right here for the right poison and bang! Good-bye Washington.''

This threat and the lack of action by the Department of Homeland Security has led many city officials to consider local legislation to ban shipments of hazardous materials. Right now, a dispute between the District of Columbia and the transportation companies joined by the Bush administration is being litigated in Federal courts. Other cities, such as Philadelphia and Boston are considering similar action. As a former county executive, I am sympathetic to the plight of local officials, and they should certainly be allowed to exercise their police powers in appropriate situations. I believe, and I am sure most local officials would agree, that it would be better to have a national, comprehensive policy on this issue. This is simply too important to have a patchwork strategy. The Department of Homeland Security should have already done this. Unfortunately, they have not, and this legislation will require the Department to take some basic, fundamental steps to enhance safety for the American people.

The legislation that I am introducing requires the Department of Homeland Security to issue regulations establishing a national policy for dealing with the transport of the world's most dangerous chemicals by rail through our high threat cities. It will require the Department to develop protocols for the notification of State and local officials, and it will require the Department to study and report to Congress regarding security enhancing measures such as secondary containment technologies, GPS tracking of shipments, and the feasibility of smaller, more secure tankers. The bill also includes a provision requiring the Department of Homeland Security to work with State and local officials, the rail industry and other stakeholders to develop a strategy for rerouting a small fraction of the most dangerous materials around our most threatened city. It is estimated that only 5 percent of all hazardous materials shipped by rail will be subjected to this regulation. Finally, the bill will provide $100 million to State and local governments and rail operators to purchase safety equipment and provide training to first responders and rail workers who are likely to discover and respond to an incident involving hazardous materials. An additional $10 million will be made available to the National Labor College to provide further training for rail workers.

I realize that the rail industry has invested considerable amounts of its own money to enhance security since September 11, and this legislation is not an indictment of their efforts. I have been pushing to get more Federal funding for rail security for years, but this plea has fallen on deaf ears within the administration. I realize that we cannot eliminate every conceivable risk, but at a time when we have troops overseas fighting the war on terror and our Nation's law enforcement agencies are on high alert, the least that we should do

is ensure that we have a national strategy for handling a threat that is comparable in scope to a nuclear or biological attack. I will close by again referring to the grave warning set out in the study by the Naval Research Laboratory—''over 100,000 people could be seriously harmed or even killed in the first half hour'' of an attack. The danger is simply too great to ignore, and I ask my colleagues to join me in passing this critical legislation.

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

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

S. 1256

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Hazardous Materials Vulnerability Reduction Act of 2005''.

(b) FINDINGS.—Congress makes the following findings:

(1) Congress has specifically given the Department of Homeland Security, working in conjunction with the Department of Transportation and other Federal agencies, the primary authority for the security of the United States transportation sector, including passenger and freight rail.

(2) This authority includes the responsibility to protect American citizens from terrorist incidents related to the transport by rail of extremely hazardous materials.

(3) Federal agencies have determined that hazardous materials can be used as tools of destruction and terror and that extremely hazardous materials are particularly vulnerable to sabotage or misuse during transport.

(4) The Federal Bureau of Investigation and the Central Intelligence Agency have found evidence suggesting that chemical tankers used to transport and store extremely hazardous chemicals have been targeted by terrorist groups.

(5) Rail shipments of extremely hazardous materials are often routed through highly attractive targets and densely populated areas, including within a few miles of the White House and United States Capitol.

(6) According to security experts, certain extremely hazardous materials present a mass casualty terrorist potential rivaled only by improvised nuclear devices, certain acts of bioterrorism, and the collapse of large occupied buildings.

(7) A report by the Chlorine Institute found that a 90-ton rail tanker, if successfully targeted by an explosive device, could cause a catastrophic release of an extremely hazardous material, creating a toxic cloud 40 miles long and 10 miles wide.

(8) The Environmental Protection Agency estimates that in an urban area a toxic cloud could extend for 14 miles.

(9) The United States Naval Research Laboratories concluded that a toxic plume of this type, created while there was a public event on the National Mall, could kill or injure up to 100,000 people in less than 30 minutes.

(10) According to security experts, rail shipments of extremely hazardous materials are particularly vulnerable and dangerous, however the Federal Government has made no material reduction in the inherent vulnerability of hazardous chemical targets inside the United States.

(11) While the safety record related to rail shipments of hazardous materials is very good, recent accidental releases of extremely hazardous materials in rural South Carolina and San Antonio, Texas, demonstrate the fatal danger posed by extremely hazardous materials.

(12) Security experts have determined that re-routing these rail shipments is the only way to immediately eliminate this danger in high threat areas, which currently puts hundreds of thousands of people at risk.

(13) Security experts have determined that the primary benefit of re-routing the shipment of extremely hazardous materials is a reduction in the number of people that would be exposed to the deadly impact of the release due to an attack, and the principal cost would be the additional operating expense associated with possible increase inhaul for the shipment of extremely hazardous materials.

(14) Less than 5 percent of all hazardous materials shipped by rail will meet the definition of extremely hazardous materials under this Act.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) EXTREMELY HAZARDOUS MATERIAL.—The term ''extremely hazardous material'' means any chemical, toxin, or other material being shipped or stored in sufficient quantities to represent an acute health threat or have a high likelihood of causing injuries, casualties, or economic damage if successfully targeted by a terrorist attack, including materials that—

(A) are—

(i) toxic by inhalation;

(ii) extremely flammable; or

(iii) highly explosive;

(B) contain high level nuclear waste; or

(C) are otherwise designated by the Secretary as extremely hazardous.

(2) HIGH THREAT CORRIDOR.—

(A) IN GENERAL.—The term ''high threat corridor'' means a geographic area that has been designated by the Secretary as particularly vulnerable to damage from the release of extremely hazardous materials, including—

(i) large populations centers;

(ii) areas important to national security;

(iii) areas that terrorists may be particularly likely to attack; or

(iv) any other area designated by the Secretary as vulnerable to damage from the rail shipment or storage of extremely hazardous materials.

(B) OTHER AREAS.—

(i) IN GENERAL.—Any city that is not designated as a high threat corridor under subparagraph (A) may file a petition with the Secretary to be so designated.

(ii) PROCEDURE.—The Secretary shall establish, by rule, regulation, or order, procedures for petitions under clause (i), including—

(I) designating the local official eligible to file a petition;

(II) establishing the criteria a city shall include in a petition;

(III) allowing a city to submit evidence supporting its petition; and

(IV) requiring the Secretary to rule on the petition not later than 60 days after the date of submission of the petition.

(iii) NOTICE.—The Secretary's decision regarding any petition under clause (i) shall be communicated to the requesting city, the Governor of the State in which the city is located, and the Senators and Members of the House of Representatives that represent the State in which the city is located.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security or the Secretary's designee.

(4) STORAGE.—The term ''storage'' means any temporary or long-term storage of extremely hazardous materials in rail tankers or any other medium utilized to transport extremely hazardous materials by rail.

SEC. 3. REGULATIONS FOR TRANSPORT OF EXTREMELY HAZARDOUS MATERIALS.

(a) PURPOSES OF REGULATIONS.—The regulations issued under this section shall establish a national, risk-based policy for extremely hazardous materials transported by rail or being stored. To the extent the Secretary determines appropriate, the regulations issued under this section shall be consistent with other Federal, State, and local regulations and international agreements relating to shipping or storing extremely hazardous materials.

(b) ISSUANCE OF REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue, after notice and opportunity for public comment, regulations concerning the rail shipment and storage of extremely hazardous materials by owners and operators of railroads. In developing such regulations, the Secretary shall consult with other Federal, State, and local government entities, security experts, representatives of the hazardous materials rail shipping industry, labor unions representing persons who work with hazardous materials in the rail shipping industry, and other interested persons, including private sector interest groups.

(c) REQUIREMENTS.—The regulations issued under this section shall—

(1) include a list of the high threat corridors designated by the Secretary;

(2) contain the criteria used by the Secretary to determine whether an area qualifies as a high threat corridor;

(3) include a list of extremely hazardous materials;

(4) establish protocols for owners and operators of railroads that ship extremely hazardous materials regarding notifying all governors, mayors, and other designated officials and local emergency responders in a high threat corridor of the quantity and type of extremely hazardous materials that are transported by rail through the high threat corridor;

(5) require reports regarding the transport by railroad of extremely hazardous materials by the Secretary to local governmental officials designated by the Secretary, and Local Emergency Planning Committees, established under the Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. 11001 et seq.);

(6) establish protocols for the coordination of Federal, State, and local law enforcement authorities in creating a plan to respond to a terrorist attack, sabotage, or accident involving a rail shipment of extremely hazardous materials that causes the release of such materials;

(7) require that any rail shipment containing extremely hazardous materials be rerouted around any high threat corridor; and

(8) establish standards for the Secretary to grant exceptions to the re-routing requirement under paragraph (7).

(d) HIGH THREAT CORRIDORS.—

(1) IN GENERAL.—The criteria under subsection (c)(2) for determining whether an area qualifies as a high threat corridor may be the same criteria used for the distribution of funds under the Urban Area Security Initiative program.

(2) INITIAL LIST.—If the Secretary is unable to complete the review necessary to determine which areas should be designated as high threat corridors within 90 days after the date of enactment of this Act, the initial list shall be the cities that receive funding under the Urban Areas Security Initiative Program in fiscal year 2004.

(e) EXTREMELY HAZARDOUS MATERIALS LIST.—If the Secretary is unable to complete

the review necessary to determine which materials should be designated extremely hazardous materials under subsection (c)(3) within 90 days of the date of enactment of this Act, the initial list shall include—

(1) explosives classified as Class 1, Division 1.1, or Class 1, Division 1.2, under section 173.2 of title 49, Code of Federal Regulations, in a quantity greater than 500 kilograms;

(2) flammable gasses classified as Class 2, Division 2.1, under section 173.2 of title 49, Code of Federal Regulations, in a quantity greater than 10,000 liters;

(3) poisonous gasses classified as Class 2, Division 2.3, under section 173.2 of title 49, Code of Federal Regulations, that are also assigned to Hazard Zones A or B under section 173.116 of title 49, Code of Federal Regulations, in a quantity greater than 500 liters;

(4) poisonous materials, other than gasses, classified as Class 6, Division 6.1, under section 173.2 of title 49, Code of Federal Regulations, that are also assigned to Hazard Zones A or B under section 173.116 of title 49, Code of Federal Regulations, in a quantity greater than 1,000 kilograms; and

(5) anhydrous ammonia classified as Class 2, Division 2.2, under section 173.2 of title 49, Code of Federal Regulations, in a quantity greater than 1,000 kilograms.

(f) NOTIFICATION.—

(1) IN GENERAL .—The protocols under subsection (c)(4) shall establish the required frequency of reporting by an owner and operator of a railroad to the Governors, Mayors, and other designated officials and local emergency responders in a high threat corridor.

(2) REPORTS TO SECRETARY.—The protocols under subsection (c)(4) shall require owners and operators of railroad to make annual reports to the Secretary regarding the transportation of extremely hazardous materials, and to make quarterly updates if there has been any significant change in the type, quantity, or frequency of shipments.

(3) CONSIDERATIONS.—In developing protocols under subsection (c)(4), the Secretary shall consider both the security needs of the United States and the interests of State and local governmental officials.

(g) REPORTS.—

(1) FREQUENCY.—

(A) IN GENERAL.—The Secretary shall make an annual report to local governmental officials and Local Emergency Planning Committees under subsection (c)(5).

(B) UPDATES.—If there has been any significant change in the type, quantity, or frequency of rail shipments in a geographic area, the Secretary shall make a quarterly update report to local governmental officials and Local Emergency Planning Committees in that geographic area.

(2) CONTENTS.—Each report made under subsection (c)(5) shall incorporate information from the reports under subsection (c)(4) and shall include—

(A) a good-faith estimate of the total number of rail cars containing extremely hazardous materials shipped through or stored in each metropolitan statistical area; and

(B) if a release from a railcar carrying or storing extremely hazardous materials is likely to harm persons or property beyond the property of the owner or operator of the railroad, a risk management plan that provides—

(i) a hazard assessment of the potential effects of a release of the extremely hazardous materials, including—

(I) an estimate of the potential release quantities; and

(II) a determination of the downwind effects, including the potential exposures to affected populations;

(ii) a program to prevent a release of extremely hazardous materials, including—

(I) security precautions;

(II) monitoring programs; and

(III) employee training measures utilized; and

(iii) an emergency response program that provides for specific actions to be taken in response to the release of an extremely hazardous material, including procedures for informing the public and Federal, State, and local agencies responsible for responding to the release of an extremely hazardous material.

(h) TRANSPORTATION AND STORAGE OF EXTREMELY HAZARDOUS MATERIALS THROUGH HIGH THREAT CORRIDORS.—

(1) IN GENERAL.—The standards for the Secretary to grant exceptions under subsection (c)(8) shall require a finding of special circumstances by the Secretary, including that—

(A) the shipment originates in or is destined to the high threat corridor;

(B) there is no practical alternate route;

(C) there is an unanticipated, temporary emergency that threatens the lives of people in the high threat corridor; or

(D) there would be no harm to persons or property beyond the property of the owner or operator of the railroad in the event of a successful terrorist attack on the shipment.

(2) PRACTICAL ALTERNATE ROUTES.—Whether a shipper must utilize an interchange agreement or otherwise utilize a system of tracks or facilities owned by another operator shall not be considered by the Secretary in determining whether there is a practical alternate route under paragraph (1)(B).

(3) GRANT OF EXCEPTION.—If the Secretary grants an exception under subsection (c)(8)—

(A) the extremely hazardous material may not be stored in the high threat corridor, including under a leased track or rail siding agreement; and

(B) the Secretary shall notify Federal, State, and local law enforcement and first responder agencies (including, if applicable, transit, railroad, or port authority agencies) within the high threat corridor.

SEC. 4. SAFETY TRAINING.

(a) HOMELAND SECURITY GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary may award grants to local governments and owners and operators of railroads to conduct training regarding safety procedures for handling and responding to emergencies involving extremely hazardous materials.

(2) USE OF FUNDS.—Grants under this subsection may be used to provide training and purchase safety equipment for individuals who—

(A) transport, load, unload, or are otherwise involved in the shipment of extremely hazardous materials;

(B) would respond to an accident or incident involving a shipment of extremely hazardous materials; and

(C) would repair transportation equipment and facilities in the event of such an accident or incident.

(3) APPLICATION.—A local government or owner or operator of a railroad desiring a grant under this subsection shall submit an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably establish.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 to carry out this subsection.

(b) RAILWAY HAZMAT TRAINING PROGRAM.—

(1) PROGRAM.—Section 5116(j) of title 49, United States Code, is amended by adding at the end the following:

''(6) RAILWAY HAZMAT TRAINING PROGRAM.—

''(A) In order to further the purposes of subsection (b), the Secretary of Transportation shall, subject to the availability of funds, make grants to national nonprofit employee organizations with experience in conducting training regarding the transportation of hazardous materials on railways for the purpose of training railway workers who are likely to discover, witness, or otherwise identify a release of extremely hazardous materials and to prevent or respond appropriately to the incident.

''(B) The Secretary of Transportation shall delegate authority for the administration of the Railway Hazmat Training Program to the Director of the National Institute of Environmental Health Sciences under subsection (g). In administering the program under this paragraph, the Director of the National Institute of Environmental Health Sciences shall consult closely with the Secretary of Transportation and the Secretary of Homeland Security.''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 5127 of title 49, United States Code, is amended by adding at the end the following:

''(h) RAILWAY HAZMAT TRAINING PROGRAM.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2006, 2007, and 2008 to carry out section 5116(j)(6).''.

SEC. 5. RESEARCH AND DEVELOPMENT.

(a) TRANSPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall conduct a study of the benefits and availability of technology and procedures that may be utilized to—

(A) reduce the likelihood of a terrorist attack on a rail shipment of extremely hazardous materials;

(B) reduce the likelihood of a catastrophic release of extremely hazardous materials in the event of a terrorist attack; and

(C) enhance the ability of first responders to respond to a terrorist attack on a rail shipment of extremely hazardous materials and other required activities in the event of such an attack.

(2) MATTERS STUDIED.—The study conducted under this subsection shall include the evaluation of—

(A) whether safer alternatives to 90-ton rail tankers exist;

(B) the feasibility of requiring chemical shippers to electronically track the movements of all shipments of extremely hazardous materials and report this information to the Department of Homeland Security on an ongoing basis as such shipments are transported; and

(C) the feasibility of utilizing finger-print based access controls for all chemical conveyances.

(3) REPORTING.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress describing the findings of the study conducted under this subsection, which shall include recommendations and cost estimates for securing shipments of extremely hazardous materials.

(b) PHYSICAL SECURITY.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall conduct a study of the physical security measures available for rail shipments of extremely hazardous materials that will reduce the risk of leakage or release in the event of a terrorist attack or sabotage.

(2) MATTERS STUDIED.—The study conducted under this subsection shall consider the use of passive secondary containment of tanker valves, additional security force personnel, surveillance technologies, barriers, decoy rail cars, and methods to minimize delays during shipping.

(3) REPORTING.—Not later than 180 days after the date of enactment of this Act, the

Secretary shall submit a report to Congress describing the findings of the study conducted under this subsection, which shall contain recommendations and cost estimates for securing shipments of extremely hazardous materials.

(c) LEASED TRACK STORAGE ARRANGEMENTS.—

(1) IN GENERAL.—Not later than 90 days after enactment of this Act, the Secretary shall conduct a study of available alternatives to storing extremely hazardous materials in or on leased track facilities.

(2) MATTERS STUDIED.—The study conducted under this subsection shall—

(A) evaluate the extent of the use of leased track facilities and the security measures that should be taken to secure leased track facilities; and

(B) assess means to limit the consequences of an attack on extremely hazardous materials stored on leased track facilities to nearby communities.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress describing the findings of the study conducted under this subsection, which shall contain recommendations and cost estimates for securing shipments of extremely hazardous materials.

SEC. 6. WHISTLEBLOWER PROTECTION.

(a) PROHIBITION AGAINST DISCRIMINATION.—No owner or operator of a railroad may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Secretary, the Attorney General, or any Federal supervisory agency regarding a possible violation of any provision of this Act by the owner or operator of a railroad or any director, officer, or employee of an owner or operator of a railroad.

(b) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

(c) REMEDIES.—If the district court determines that a violation has occurred, the court may order the owner or operator of a railroad that committed the violation to—

(1) reinstate the employee to the employee's former position;

(2) pay compensatory damages; or

(3) take other appropriate actions to remedy any past discrimination.

(d) LIMITATION.—The protections of this section shall not apply to any employee who—

(1) deliberately causes or participates in the alleged violation of law or regulation; or

(2) knowingly or recklessly provides substantially false information to the Secretary, the Attorney General, or any Federal supervisory agency.

SEC. 7. PENALTIES.

(a) RIGHT OF ACTION.—

(1) IN GENERAL.—Any State or local government may bring a civil action in a United States district court for redress of injuries caused by a violation of this Act against any person (other than an individual) who transports, loads, unloads, or is otherwise involved in the shipping of extremely hazardous materials by rail and who violated this Act.

(2) RELIEF.—In an action under paragraph (1), a State or local government may seek, for each violation of this Act—

(A) an order for injunctive relief; and

(B) a civil penalty of not more than $1,000,000.

(b) ADMINISTRATIVE PENALTIES.—

(1) IN GENERAL.—The Secretary may issue an order imposing an administrative penalty of not more than $1,000,000 for each failure by a person (other than an individual) who transports, loads, unloads, or is otherwise involved in the shipping of extremely hazardous materials to comply with this Act.

(2) NOTICE AND HEARING.—Before issuing an order under paragraph (1), the Secretary shall provide the person who allegedly violated this Act—

(A) written notice of the proposed order; and

(B) the opportunity to request, not later than 30 days after the date on which the person received the notice, a hearing on the proposed order.

(3) PROCEDURES.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue regulations establishing procedures for administrative hearings and the appropriate review of penalties issued under this subsection, including establishing deadlines.

By Mr. SPECTER (for himself and Mr. LAUTENBERG):

S. 1257. A bill to amend title 28, United States Code, to clarify that persons may bring private rights of actions against foreign states for certain terrorist acts, and for other purposes; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, along with my colleague, Senator LAUTENBERG, I am introducing the Justice for Marine Corps Families—Victims of Terrorism Act. I am submitting this legislation on behalf of the families of the brave servicemen who died when terrorists—with the support of the Government of Iran—sent a suicide bomber into the Marine Corps Barracks in Beirut, Lebanon, on October 23, 1983, killing 241 U.S. servicemen—18 sailors, 3 soldiers, and 220 marines.

This legislation clarifies a private right of action, in Federal courts, for U.S. citizens against state sponsors of terrorism and will ultimately make it easier for victims of such acts to collect court-ordered damages against state-sponsors of terrorism. The specific provisions of the legislation have been drafted to harmonize existing statutory law with the recent decision by the District of Columbia circuit in *Cicippio-Puleo* v. *Islamic Republic of Iran*, 353 F.3d 1024, D.C. Cir. 2004, which held that ''neither 28 U.S.C. §1605(a)(7) nor the Flatow Amendment to the Foreign Sovereign Immunities Act. . . ., nor the two considered in tandem, creates a private right of action against a foreign government.'' 353 F.3d 1024, 1032–33 (D.C. Cir. 2004). This bill will permit the families of the brave servicemen who died at the Marine Corps Barracks in Beirut, Lebanon, to collect court-ordered damages against state-sponsors of terrorism such as Iran.

The initial section of the bill clarifies that victims of a state-sponsored terrorist attack are permitted to bring a private suit against the sponsoring foreign terrorist government. Congress first allowed U.S. citizen victims of state sponsored terrorism to pursue private actions against a foreign terrorist government when we passed the Flatow Amendment in 1996. Now, some 9 years and over 50 successful cases later, the Federal Appellate Court for the District of Columbia Circuit in *Cicippio-Puleo* v. *Islamic Republic of Iran*, 353 F.3d 1024 D.C., 2004, has held that the Flatow amendment did not create a private right of action against a foreign terrorist government. Accordingly, the initial section of this bill will correct *Cicippio-Puleo* by explicitly inserting language into the Flatow amendment enabling U.S. citizens to once again bring private suits against foreign terrorist governments who have murdered or maimed their loved ones.

The second section of the bill eliminating many of the barriers which have prevented U.S. citizens from collecting on court ordered damages against state sponsors of terrorism. The bill does this by changing the legal standard of the Bancec doctrine from day to day-managerial control to those under the beneficial ownership of the state. The Supreme Court enunciated the so-called *Bancec* doctrine in *First Nat'l City Bank* v. *Banco Para EI Comercio Exterior de Cuba*, 462 U.S. 611, 626–27, 1983. In this case, the U.S. Supreme Court created a presumption against a party that seeks to satisfy an outstanding judgment against a foreign government by seizing the foreign government's assets. This section of the bill will ease the burden on the families of victims of terrorism by permitting them to attach the hidden assets of terrorist states held within the United States. Finally, the remaining portions of the bill would create a mechanism whereby a lien could be filed in any jurisdiction in the United States where a state sponsor of terrorism directly or indirectly owns assets. This would prevent foreign state sponsors of terrorism from removing these assets from the country after the passage of this legislation.

On October 23, 2004, in Philadelphia, I was privileged to take part in a memorial service held in honor of the servicemen killed in the 1983 Beirut attack. Some of the family members of those killed attended the event. Their moving comments about how they had been denied the ability to seek legal redress, despite clear findings implicating Iran in the attacks, were both poignant and persuasive. It is vitally important to victims' families that they have a private right of action against the state sponsor itself, not just against its officials, employees, or agents acting in their official capacity. These victims and their families deserve not only a day in court but also the ability to recover damages from these terrorist states that commit, direct, or materially support terrorist acts against American citizens or nationals. This bill reaffirms that the United States will not tolerate state-sponsored terrorism. Accordingly, I urge my colleagues to join us in support of this

bill. I yield the floor. I ask unaminous consent that the text of the bill be printed in the RECORD.

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

S. 1257

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

SECTION 1. CLARIFICATION OF PRIVATE RIGHT OF ACTION AGAINST TERRORIST STATES; DAMAGES.

(a) RIGHT OF ACTION.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (f), in the first sentence, by inserting ''or (h)'' after ''subsection (a)(7)''; and

(2) by adding at the end the following:

''(h) CERTAIN ACTIONS AGAINST FOREIGN STATES OR OFFICIALS, EMPLOYEES, OR AGENTS OF FOREIGN STATES.—

''(1) CAUSE OF ACTION.—

''(A) CAUSE OF ACTION.—A foreign state designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or an official, employee, or agent of such a foreign state, shall be liable to a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or the national's legal representative for personal injury or death caused by an act of that foreign state, or by that official, employee, or agent while acting within the scope of his or her office, employment, or agency, for which the courts of the United States may maintain jurisdiction under subsection (a)(7) for money damages. The removal of a foreign state from designation as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or other provision of law shall not terminate a cause of action arising under this subparagraph during the period of such designation.

''(B) DISCOVERY.—The provisions of subsection (g) apply to actions brought under subparagraph (A).

''(C) NATIONALITY OF CLAIMANT.—No action shall be maintained under subparagraph (A) arising from an act of a foreign state or an official, employee, or agent of a foreign state if neither the claimant nor the victim was a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) when such acts occurred.

''(2) DAMAGES.—In an action brought under paragraph (1) against a foreign state or an official, employee, or agent of a foreign state, the foreign state, official, employee, or agent, as the case may be, may be held liable for money damages in such action, which may include economic damages, damages for pain and suffering, or, notwithstanding section 1606, punitive damages. In all actions brought under paragraph (1), a foreign state shall be vicariously liable for the actions of its officials, employees, or agents.

''(3) APPEALS.—An appeal in the courts of the United States in an action brought under paragraph (1) may be made—

''(A) only from a final decision under section 1291 of this title, and then only if filed with the clerk of the district court within 30 days after the entry of such final decision; and

''(B) in the case of an appeal from an order denying the immunity of a foreign state, a political subdivision thereof, or an agency of instrumentality of a foreign state, only if filed under section 1292 of this title.''.

(b) CONFORMING AMENDMENT.—Section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as contained in section 101(a) of Division A of Public Law 104–208 (110 Stat. 3009–172; 28 U.S.C. 1605 note), is repealed.

SEC. 2. PROPERTY SUBJECT TO ATTACHMENT EXECUTION.

Section 1610 of title 28, United States Code, is amended by adding at the end the following:

''(g) PROPERTY INTERESTS IN CERTAIN ACTIONS.—

''(1) IN GENERAL.—A property interest of a foreign state, or agency or instrumentality of a foreign state, against which a judgment is entered under subsection (a)(7) or (h) of section 1605, including a property interest that is a separate juridical entity, is subject to execution upon that judgment as provided in this section, regardless of—

''(A) the level of economic control over the property interest by the government of the foreign state;

''(B) whether the profits of the property interest go to that government;

''(C) the degree to which officials of that government manage the property interest or otherwise control its daily affairs;

''(D) whether that government is the real beneficiary of the conduct of the property interest; or

''(E) whether establishing the property interest as a separate entity would entitle the foreign state to benefits in United States courts while avoiding its obligations.

''(2) UNITED STATES SOVEREIGN IMMUNITY INAPPLICABLE.—Any property interest of a foreign state, or agency or instrumentality of a foreign state, to which paragraph (1) applies shall not be immune from execution upon a judgment entered under subsection (a)(7) or (h) of section 1605 because the property interest is regulated by the United States Government by reason of action taken against that foreign state under the Trading With the Enemy Act or the International Emergency Economic Powers Act.''.

SEC. 3. APPOINTMENT OF SPECIAL MASTERS.

(a) VICTIMS OF CRIME ACT.—Section 1404C(a)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603c(a)(3)) is amended by striking ''December 21, 1988, with respect to which an investigation or'' and inserting ''October 23, 1983, with respect to which an investigation or a civil or criminal''.

(b) JUSTICE FOR MARINES.—The Attorney General shall transfer, from funds available for the program under sections 1404C of the Victims of Crime Act of 1984 (42 U.S.C. 10603c), to the Administrator of the United States District Court for the District of Columbia such funds as may be required to carry out the orders of United States District Judge Royce C. Lamberth appointing Special Masters in the matter of Peterson, et al. v. The Islamic Republic of Iran, Case No. 01CV02094 (RCL).

SEC. 4. LIS PENDENS.

(a) LIENS.—In every action filed in a United States district court in which jurisdiction is alleged under subsection (a)(7) or (h) of section 1605 of title 28, United States Code, the filing of a notice of pending action pursuant to such subsection, to which is attached a copy of the complaint filed in the action, shall have the effect of establishing a lien of lis pendens upon any real property or tangible personal property located within that judicial district that is titled in the name of any defendant, or titled in the name of any entity controlled by any such defendant if such notice contains a statement listing those controlled entities. A notice of pending action pursuant to subsection (a)(7) or (h) of section 1605 of title 28, United States Code, shall be filed by the clerk of the district court in the same manner as any pending action and shall be indexed by listing as defendants all named defendants and all entities listed as controlled by any defendant.

(b) ENFORCEMENT.—Liens established by reason of subsection (a) shall be enforceable as provided in chapter 111 of title 28, United States Code.

SEC. 5. APPLICABILITY.

(a) IN GENERAL.—The amendments made by this Act apply to any claim for which a foreign state is not immune under subsection (a)(7) or (h) of section 1605 of title 28, United States Code, arising before, on, or after the date of the enactment of this Act.

(b) PRIOR CAUSES OF ACTION.—In the case of any action that—

(1) was brought in a timely manner but was dismissed before the enactment of this Act for failure to state of cause of action, and

(2) would be cognizable by reason of the amendments made by this Act, the 10-year limitation period provided under section 1605(f) of title 28, United States Code, shall be tolled during the period beginning on the date on which the action was first brought and ending 60 days after the date of the enactment of this Act.

By Mr. CHAMBLISS:

S. 1258. A bill to designate the building located at 493 Auburn Avenue, N.E., in Atlanta, Georgia, as the ''John Lewis Civil Rights Institute''; to the Committee on Environment and Public Works.

Mr. CHAMBLISS. Mr. President, I rise today to honor a man who has been at the front of our country's fight for civil rights. Born a son of sharecroppers in Troy, AL, JOHN grew up to become one of the leading proponents fighting on the frontlines of the civil rights movement.

JOHN grew up listening to speeches from the Reverend Martin Luther King Jr., and observing many courageous acts, such as the Montgomery bus boycotts. Through those examples, LEWIS could no longer stand idly by while others suffered for his sake. He was motivated to become an active participant in these historical events. From organizing peaceful demonstrations, to riding in the fronts of buses, LEWIS was a key leader and played a dynamic role in the civil rights movement.

From 1963–1966 LEWIS served as chairman of the Student Nonviolent Coordinating Committee. In 1963 LEWIS was named one of the Big Six Civil Rights leaders along with Martin Luther King Jr., James Farmer, Roy Wilkins, Whitney Young, and A. Phillip Randolph.

In August 1963, JOHN LEWIS was a keynote speaker at the momentous March on Washington where Martin Luther King, Jr. gave his ''I Have a Dream'' speech. On March 7, 1965, LEWIS helped the now pivotal voting rights march from Selma to Montgomery, AL. Sustaining physical injuries for the principles he believed in, JOHN LEWIS remained steadfast in his commitment to promoting human rights in the United States. The violent reactions by Alabama state troopers that day sparked an outcry and

eventually served to facilitate passage of the Voting Rights Act of 1965.

Mr. President, as a congressman, statesman, humanitarian, the Nation has benefited greatly from the lifelong contributions of JOHN LEWIS. I am proud to introduce legislation honoring JOHN LEWIS.

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

S. 1258

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

SECTION 1. JOHN LEWIS CIVIL RIGHTS INSTITUTE.

(a) DESIGNATION.—The building located at 493 Auburn Avenue, N.E., in Atlanta, Georgia, shall be known and designated as the ''John Lewis Civil Rights Institute''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the John Lewis Civil Rights Institute.

By Mr. ALEXANDER:

S. 1261. A bill to simplify access to financial aid and access to information on college costs, to provide for more learning and less reporting, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ALEXANDER. Mr. President, in case the President may be wondering, and I asked consent about this, these are 7,000 regulations. We have 6,000 autonomous institutions of higher education in the United States, colleges and universities.

The Presiding Officer comes from the State that has some of the finest colleges and universities anywhere in America. I will not begin to name them because there are so many of them I might leave one out. Every single college or university, public or private, in North Carolina, Tennessee, or Colorado which has students with Federal grants or loans gets all of these boxes this year. These are the Federal regulations under title IV of the Higher Education Act that somebody at the smallest college or the biggest university must wade through in order to help students have Federal grants and Federal loans. The Federal grant and Federal loans are one of the great success stories of the United States of America. I will talk more about that.

Mr. President, 60 percent of our college students and university students at those 6,000 public and private and profit and nonprofit institutes of higher education, 60 percent of them have a Federal grant or loan to help pay for college. That has increased over the last 4 or 5 years about 10 times faster—9 times faster—than State funding for higher education.

But my goal today, in my remarks and in the bill I am introducing, is to make it easier for boys and girls and men and women who attend our colleges and universities—and many of them are mature, older students—to make it easier for them to go through these documents. And then, on the other hand, to make it easier for our colleges and universities to comply with all these rules and regulations. I would like for them to be spending their time and their money helping our students learn instead of spending their time and their money reporting to us what they are doing.

That is the purpose of what I want to do today. I am introducing the Higher Education Simplification and Deregulation Act of 2005, a bill that does what I just described. It will help students get access to available financial resources. Second, it will reduce the burden on colleges and universities imposed by Federal regulations so they can devote more of their time doing what they are meant to do: provide the highest quality postsecondary education in the world. And third, it will ensure that the autonomy and independence of our 6,000 institutions of higher education are preserved.

I am delighted I am able to interrupt the energy debate to talk about higher education because I think while it sounds like we are shifting gears, they really go together. If I am looking at our country today, and I had to take an exam this minute about the two greatest issues facing the United States of America, I would say, No. 1, terrorism, and, No. 2, competitiveness. ''Competitiveness'' a big word, meaning: How are we going to keep our jobs? How are we going to keep our standard of living in this country when we have 5 or 6 percent of the people in the world, and yet we produce a third of all the money, consume 25 percent of all the energy? And China and India and Singapore and Malaysia, not to mention Japan and Europe, are saying: Wait a minute. Our brains are as good as those American brains. A lot of our students have been going to the United States, creating jobs for those Americans. In fact, 572,000 foreign students are in this country today, basically improving our standard of living by their work here.

So we are in a very competitive time. Just as we have been saying in energy, here comes China, here comes Malaysia, here comes India buying up the oil reserves, driving up the price. Here comes Germany and other parts of the world with lower natural gas prices than we have. And our jobs are going toward them.

The other thing we could do to ensure our good jobs and to keep our higher standard of living is to focus on our brainpower. The great advantages the United States of America has had since World War II have been our low cost, reliable supply and access to energy, our science and technology edge, and our educational institutions. There are so many examples of that.

Mrs. KAY BAILEY HUTCHISON, the senior Senator from Texas, and our majority leader, Senator BILL FRIST, had a little session in the leader's office last year. They invited the former Brazilian President Fernando Henrique Cardoso. He was concluding his residency at the Library of Congress. I remember after he had said what he had to say, we asked our questions.

Senator HUTCHISON asked of President Cardoso: Mr. President, what is the one thing you are going to remember about the United States from your stay here at the Library of Congress that you will take with you back to your country of Brazil? Without a moment's hesitation, he said: The American university, the greatness and the autonomy of the American university.

I will tell you another story. A few years ago, I was asked to be the president of the University of Tennessee. It was 1988. I was glad to do it. I had been chairman of the board of the university for 8 years as Governor, and I appointed a lot of the trustees, but I was not a skilled university president. So I sought out David Gardner, the president of the University of California, which I regard, with all respect to North Carolina, at least at that time, to be the outstanding public university in America and perhaps one of the best in the world.

I said to David Gardner: Why is the University of California so good? Without a moment's hesitation, he said: First, autonomy. When California created the university—they created four branches of government, really: legislative, executive, judicial, and then the University of California. He said: Fundamentally, they give us the money, and then our board and we decide how to spend it. Our autonomy has permitted us to do the second thing, set very high standards. And then he said the third thing was the large amount of Federal dollars that follows students to the educational institution of their choice.

So autonomy, excellence, and choice—Federal dollars following students to the schools of their choice. That is how David Gardner explained the California model for excellence in higher education.

That model has worked for our country since the GI bill for veterans was enacted in 1944. I have wondered many times how we were fortunate enough to have decided to do it in the way they did it. This was for the veterans. It was the end of World War II. There were college presidents who were very upset about the idea of giving the veterans money and just telling them to go wherever they wanted to go to college.

The president of the University of Chicago said it would make the University of Chicago a hobo's jungle. But we know what it did. We had veterans coming back and taking their GI bill. Many of them took it to Catholic high schools and other high schools because they had not finished high school. But they went wherever they wanted, to any accredited institution. They went to Yeshiva. They went to Vanderbilt. They went to the historically Black colleges and universities across America—Harvard. It did not matter. If it was accredited, they chose the institution.

The same formula was applied when the Pell grants were created by this Congress in honor of Senator Pell, who was a former Member of this body; as is true with Senator Stafford and the Stafford loans. Instead of giving those grants and loans to the University of North Carolina and the University of Tennessee, they went to the student. The student then said: Well, I will decide where I want to go. I may want to go to Rhodes College, or I may want to go to Lenore Rhyne or I may want to go to the University of Florida or Yeshiva or Howard. They go where they want to go.

Because of that, we now have 6,000 autonomous institutions around the country. Many of them are nonprofit. Many of them are for profit. Eighty percent of our students go to public institutions, but 20 percent go to private institutions. Because it is a marketplace of 6,000 institutions, and some are, of course, better than others, because it is a marketplace, we have been able to adapt to a changing world that now has different subjects, different standards, a more global environment, and students who are, by and large, much older and have different needs than they did before.

If we had not had that kind of marketplace of colleges and universities, we would be stuck in the mud, and we would not have former President Cardoso of Brazil talking so well about our colleges and universities.

We do not just have some of the best colleges and universities in the world; we have almost all of them. And the rest of the world knows that. We do not have 572,000 foreign students studying in our country this year because we made them come, or even because we give them scholarships. They pay to come for the most part. They are the brightest students in most of these countries. And 60 percent of our postdoctoral students are from overseas. Half our students in computer and engineering graduate programs are from overseas. They are here for that reason. So we attract these students. The Federal Government has continued to be generous.

So there are two things I am introducing today with this bill. Number one, this legislation would simplify the financial aid process and expand access for students. We do it in these ways: (a) streamline the forms for Federal grants and loans, making access to student financial aid easier; (b) provide students who want to expedite their education and study year-round the Federal support to do so; (c) provide students with financial information about colleges and universities in a clear and concise manner that does not require additional reporting from institutions.

The second purpose of the bill is to protect that autonomy, that one word, that independence, that autonomy of these 6,000 institutions. That is, in my view, a critical element of why we have the best colleges and universities in the world.

What I mean by that is we did not order them to be good from Washington. That is not how they got to be great. They were autonomous and independent. We allowed them to be, and then we gave them students, followed by money, who created a competitive marketplace. And they became the best in the world.

So this legislation eliminates, streamlines, and evaluates regulations currently imposed on institutions of higher education with the goal of lessening the burden on schools. That way, universities can focus more on teaching and researching and less on maintaining reporting requirements for the Federal Government.

The bill, No. 1, appoints an expert panel to review Department of Education regulations and to recommend how those regulations might be streamlined or eliminated. Two, it accelerates the ''negotiated rulemaking process'' whereby universities negotiate new rules with the Department so that an end result can be reached without costly delays. And three, it develops a compliance calendar so that universities know what requirements they have to meet and when they to have meet them.

What I mean by that is, it will be up to us in the Federal Government to send to the University of North Carolina or Maryville College in Tennessee a list of the rules they have to comply with so they don't have to hire a whole team of people to try to wade through and read everything.

This is just one title of the Higher Education Act. It has several titles. So a compliance calendar would help deregulate.

These changes build on the successful model for American higher education. By making the financial aid process more user friendly and more accessible, more students will have Federal funds following them to the college or university of their choice. And by relieving some of the Federal regulatory burden, we are restoring university autonomy so they can spend more time teaching and researching and less time filling out paperwork.

I have two major purposes. The first is to simplify and expand access to financial aid, to make it easier for the 60 percent of our college students who fill out a form to get a Federal grant or loan; and second, to reduce the burdensome paperwork on the colleges and universities.

In terms of simplifying access, we need to remember that the faces and needs of our college students have changed. More typically these days, when I go to a graduation—this has been true for a number of years—the cry you hear from the audience is: Way to go, mom. It is the mom who is getting her degree, or the dad, going back to school, college, community college, trade school, university to get the skills they need to get a better job or another job in a rapidly changing world.

In 1970, we had 7.4 million students, 28 percent of whom were enrolled part time and 38 percent at two-year colleges. Only 28 percent were 25 or older. By 1999, enrollment had grown to 12.7 million, a 7.2-percent increase with 39 percent enrolled part time and 44 percent in two-year colleges. Nearly half our students in 1999 were in two-year colleges. Our financial aid system needs to catch up.

The first thing we can do is to simplify what we call the Free Application Federal Student Aid. As one might expect, it is known around here as FAFSA. Imagine that. You go out and try to talk to a family of someone who might be going to college for the first time and that family says let me talk to you about FAFSA.

I think we ought to change the name. I think we ought to make it easy for people to understand what we are talking about. I recently met a chief financial officer of a company who said she found the form challenging when helping her high school daughter fill out a form for financial aid. I can only imagine the challenge to a high school student, or a working mother, when trying to answer over 100 confusing questions, the vast majority of which are only applicable for the State of California.

So a second thing we can do is make sure students can use the Federal aid for education they need year round. Flexibility for year-round Pell grants is a part of this legislation so students can have the flexibility they need to go and continue their education in the summer. There is a disincentive for that. Not only is that inconvenient for students and working students, it tends to encourage institutions to waste the resources in the summertime, which they should be putting to better use.

The third thing we can do is make sure there is more information. That is why I suggest the ''best buy'' list—a list of the 100 schools with the lowest tuition and required fees, with the greatest availability of scholarships and grants. In other words, this would help parents and students decide where they could get the biggest bang for their buck.

Many of the ideas that are in our legislation came from the Advisory Committee on Student Financial Assistance. Senator GREGG, when he was chairman, and I invited them to work on this. They did a terrific job and they came up with 10 recommendations, 8 of which are in this bill, and I believe they have no cost to the budget.

The other area and my final comments have to do with the other side of the ledger. While we are making it easier for students to have access to financial aid, we should work to relieve the regulatory burden on colleges and universities represented by these boxes of 7,000 regulations that contain all the forms any college or university in Florida or Tennessee or North Carolina would receive this year to fill out. Thanks to the last two rounds of reauthorizing the Higher Education Act,

there are today more than 7,000 regulations associated with the title IV student aid program. With the exception of the Consumer Product Safety Commission and the Federal Trade Commission, every Federal agency is involved in regulating some aspect of higher education. That is incredible and it is absolutely ridiculous.

In 1997, Gerhard Casper, the president of Stanford University, said Stanford spends 7 cents out of every tuition dollar on compliance with Government regulations. This has only gotten worse in the last 9 years. We need to ease the burden. For example, under the Higher Education Act, universities are required to report how many full-time employees have dental insurance, whether the university is a member of a national athletic association, and the number of meals that are in a ''board'' charge. Colleges are required to hand every student a paper in-State voter registration form and cannot use modern technology such as Web registrations, which would actually reach more students. We are giving university staff busy work to do when they ought to be helping students.

Here is another example. When a major chemical company such as DuPont produces 55-gallon containers of a potentially hazardous waste, we require Dupont to report on how all that waste is disposed and ensure that it is done in a certain manner. This is a good regulation and idea. Right now, we are applying the same regulation and paperwork to a chemistry class at a college that might produce half a test tube of the same substance.

Mr. President, I don't know about the presiding officer, the Senator from Florida, and I now see the Senator from Virginia; I suspect that when we all go back to our States and speak to our Lincoln Day dinners, or when the Democrats go to the Jefferson Day dinners, we all say the thing we need to do once we pass these laws is to have more oversight and ease the burden of regulation. When I say that, I get a big round of applause, because at home people don't think we get any smarter when we fly to Washington, DC, each week. They think it would be absurd to know there are 7,000 regulations governing college grants and loans, and that Stanford University spends 7 cents out of—and this is a private university—every tuition dollar paying for the cost of Government regulations.

One reason we have an increased interest in regulating is because there are a great many Members of Congress, as well as people in the country, who worry about rising tuition costs. I worry about those, too. When I was Governor of Tennessee, we used to have a deal with the students. The State will pay 70 percent of the cost, and you pay 30 percent, and if we raise your tuition, we will raise the State contribution. That has changed, I am afraid, and I think it is important for us to know that. Tuition is not going up because the Federal Government is failing to do its job. Over the last 4 years, Pell grants, work-study, scholarships all gone up about 30 percent. At the same time, over the last 4 years, State spending for higher education is up 3.6 percent. I will say that again. This is according to various educational institutions, including the Center for Study of Education Policy, Illinois State University. In fiscal year 2001, there was a 3.4 percent increase in State funding for higher education. In 2002, there was a 1.2-percent decrease; in the next year, a 2.4-percent decrease. This is State funding for higher education. Last year, there was a 3.8-percent increase—3.6 over the 4 years.

So what our colleges and universities are feeling, and what our students are feeling, is decreased State support for higher education. One reason they are feeling that is because we have not given States the tools to control the growth in Medicaid spending. So in Tennessee, Florida, Virginia, and North Carolina, our colleges and universities are hurting because the Governors and legislatures are spending the dollars that ought to be going for excellence in universities. They are spending it on huge increases in Medicaid costs. That is part of our responsibility, too.

So I come to the floor today to introduce the Higher Education Simplification and Deregulation Act of 2005. I invite my colleagues to join me in it. We will be marking up a Higher Education Authorization Act next month. It affects 60 percent of the college students in the United States. I am sure we are going to continue to fund those grants and loans, as we have from here, but we also need to do two other things. One of them is in here, and that is not to get busy regulating more colleges and universities. We should be deregulating. The other thing we should do, which is not a part of this bill, is to keep our commitment to the Governors that, by about the fall of this year, we should give them the legislative tools they need—and I believe also relief from Federal court consent decrees, which are outdated—so they can manage the growth of Medicaid spending, so that in turn we can continue to support higher education.

Our energy bill and our higher education bill are at the forefront of our policies to keep our jobs and our competitiveness.

Here's one more example: If you grab a pint bottle of rubbing alcohol from your bathroom and take it to a university laboratory, it will immediately fall under the regulation and scrutiny of six different regulatory agencies:

(1) the air quality management district,

(2) the sewer district,

(3) OSHA,

(4) the local fire department,

(5) the county environmental health department, and

(6) the state hazardous waste agency.

While all of these are not directly governed by federal regulations, many are responding to them, and we should do our part to reduce this type of burden. In one instance, a prestigious institution in the Midwest was visited by the EPA and a bottle of dishwashing soap was found in a lab near a sink. The institution was fined for improper management of hazardous waste because the label was not still attached to the bottle. Even worse, the institution had to pay to have the soap analyzed to document that it was not hazardous.

Colleges are in the business of teaching students, not sending meaningless paperwork to the federal government. To fix this problem, my legislation would establish an expert panel to review federal regulations applicable to colleges and universities and make recommendations to the Secretary of Education and the Congress on how some of these regulations could be streamlined or eliminated. The bill also would assist institutions in complying with all these requirements by requiring the Department to develop a compliance calendar outlining specific deadlines for paperwork submissions.

In those cases where there is already clarity about how to deal with regulations, the bill takes action. The bill will accelerate the ''negotiated rulemaking process,'' a process whereby university representatives negotiate new regulations with the Department. Today this process can drag on for years, imposing unnecessary costs along the way due to uncertainty over a final outcome for the rule. Under my bill, that process would have a one year deadline. To give schools a chance to adjust to newly agreed regulations, institutions of higher education would be provided with a minimum of at least 270 days between the publication of any final regulations or guidance and the initiation of data collection related to new disclosure requirements.

The bill also reinstates provisions to allow schools with a low ''cohort default rate,'' meaning that less than 10 percent of their students fail to pay all their loans back on time, the option of distributing loan money to students right at the beginning of the year rather than waiting a month or spacing the money out over the period of a year. This is important since students incur many expenses up front during their education and need the flexibility to pay for fees, books, and other costs.

Mr. President, since the end of World War II, our system of higher education has been unmatched around the globe. According to the Institute of Higher Education at Shanghai University, more than half the world's top 100 universities are in the United States.

But our lead is slipping. During a trip to Europe, I discovered that Chancellor Schroeder of Germany is putting a strong emphasis on reforming his country's university system to mirror—and perhaps even eclipse—our own. British prime minister Tony Blair is overhauling his nation's system because he sees a growing gap between the quality

of American and British universities. Authorities in India and especially China are working harder than ever to improve the quality of education in their own countries and keep their brightest minds from leaving their countries. Australia and Canada are making strides as well. And, for the first time, we have witnessed a decline in graduate student enrollment. The Council on Graduate Schools estimated that foreign applications to graduate programs in the U.S. were down this year by five percent.

This greater competition means that not only do we find it harder than ever to attract foreign students, but our graduates will find it harder to compete for top-paying jobs in the global economy since they will be competing against talented, well-educated individuals from around the world.

Now is the time to fine-tune our own system of higher education and restore its greatest strengths: generous financial assistance for students, autonomy, and high standards. Generous support is most effective when students can access it with a minimum of hassle and with maximum flexibility to apply it to their accredited program. Freedom from over-regulation or control by government allows colleges and universities to quickly adjust to the needs of their students and focus on teaching and research. High standards are the natural result of a competitive system where schools compete among each other for dollars and students.

My bill restores the pillars of our higher education system and gives us the ability to move forward with confidence in the twenty-first century. I urge my colleagues to join me in this effort.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the Higher Education Simplification and Deregulation Act of 2005.

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

HIGHER EDUCATION SIMPLIFICATION AND DEREGULATION ACT OF 2005

There are 6,000 autonomous institutions of higher education nationwide, and it is the autonomy and independence that our universities possess that makes our system of higher education the best in the world. While the federal government partners with American students, families and institutions to make a college education accessible, increased regulations on these same entities threatens this remarkably successful relationship. Countries around the world look to our higher education system and are trying to emulate it. The Higher Education Simplification and Deregulation Act of 2005 (the Act) takes steps to reduce bureaucratic red tape, increase autonomy and allow the U.S. to continue to be the best in the world. As we reauthorize The Higher Education Act over the next five years, our goal should be to make college more accessible and not restrict that autonomy.

SIMPLIFY: ACCESS TO FINANCIAL AID AND INFORMATION ON COLLEGE COSTS

(1) Simplify the Free Application for Federal Student Aid (FAFSA)

Implement the majority of recommendations from the Advisory Committee on Student Financial Assistance on simplification of the FAFSA form including improved transparency, verification of need and earlier notification of financial aid eligibility. There is no cost associated with implementing these recommendations.

(2) Year-Round Pell Grants and Flexible Loans for Year Round Study

Authorize year-round Pell grants for both 2 and 4 year institutions. This will help working students and older adults who need increased flexibility and year round financial aid.

Increase annual loan limits for greater funding flexibility for students attending college for more than two academic semesters.

(3) Secretary's list on College ''BEST BUYS''

Secretary will publish existing institutional data in a user friendly way.

Best Buy List of ''the top 100'' will help students decipher institutional expenses and financial aid.

Each year the Secretary shall publish a list of institutions of higher education, by all nine sectors, that identifies:

(a) The 100 schools with the lowest tuition and required fees;

(b) The 100 schools with the lowest cost of attendance;

(c) The 100 schools with the largest percentage of incoming full-time students who receive financial aid;

(d) The 100 schools with the largest average amount of incoming full-time student financial aid on a per student basis;

(e) The 100 schools with the largest percentage of students who receive institutional grants and scholarships;

(f) The 100 schools with the slowest increase in tuition and fees during the preceding 5 years; and

(g) The 100 schools with the slowest increase in total cost of attendance during the preceding 5 years.

(4) Make the Department of Education's Graduate Programs' Need Analysis consistent with other federal graduate programs.

All graduate and professional students are, by definition, independent students and therefore highly likely to have financial need. The federal need analysis requirement in Jacob K. Javits fellowship and Graduate Assistance in Areas of National Need (GAANN) programs often causes lengthy delays in processing grant applications. Instead of yielding helpful distinctions among the applicant pool, the requisite utilization of the federal needs analysis methodology creates massive amounts of paperwork for students, institutions, and the Department of Education. Comparable graduate fellowship programs, such as the Title VI Foreign Language and Area Studies program, and similar training and fellowship programs at National Institutes of Health, National Science Foundation, and the Department of Defense contain no such requirement. Therefore, Javits and GAANN will not be subject to federal needs analysis.

MORE LEARNING, LESS REPORTING

Institutions of higher education are among the most regulated entities in the United States.

With the exception of the Consumer Product Safety Commission and the Federal Trade Commission, all federal agencies are involved in regulating some aspect of higher education.

In addition, there are more than 7,000 regulations associated with Title IV student aid programs alone.

Seven cents of every tuition dollar is spent on government regulations (Stanford University, 1997)

There are lots of regulators of higher education and even more regulations issued by the Department.

(1) Appoint an Expert Panel to Review and Streamline Department of Education Regulations

Panels, appointed by the Secretary, will review regulations on financial aid, institutional eligibility, regulations unrelated to the delivery of student aid and dissemination of information requirements. The panel would then make recommendations to the Secretary and the appropriate Congressional committees on streamlining and eliminating these regulations.

(2) One Size Does Not Fit All for Industry and Academic Regulations

Fund a project by the National Research Council to develop standards in environmental, health and safety areas to provide for differential regulation of industrial facilities, on the one hand, and research and teaching laboratories and facilities on the other. The report will make specific recommendations for statutory and regulatory changes that are needed to develop such a differential approach.

(3) Accelerate Negotiated Rulemaking Process

The process, while somewhat successful, is costly, and significantly delays implementation of regulations. This process should be streamlined. This bill gives the Secretary of Education the authority to engage in negotiated rulemaking, but she is not required to do so if she decides the process is too cumbersome or inefficient.

(4) Develop a Compliance Calendar

For financial aid programs alone, institutions must comply with over 7,000 pages of regulations.

Each year, the Secretary will be required to provide eligible institutions a list of the reporting and disclosure requirements under the Higher Education Act to assist institutions in complying with these requirements.

The list will include: (1) the date each report is required to be completed and to be submitted, made available, or disseminated; (2) the required recipients of each report, including reports that must be kept on file for inspection upon request; (3) any required method for transmittal or dissemination; (4) a description of the content of each report sufficient to allow the institution to identify the appropriate individuals to be assigned the responsibility for its preparation; (5) references to the statutory authority, applicable regulations, and current guidance issued by the Secretary regarding each report; and (6) any other information which is pertinent to the content or distribution of the report or disclosure.

(5) Reinstate two expiring provisions on disbursement of student loans.

The first provision allows schools with cohort default rates below 10 percent to disburse a loan in a single installment rather than in multiple disbursements over the year.

The second lets schools with low cohort default rates waive the requirement that loan proceeds of a first-year, first-time borrower loan be withheld for thirty days so that these students can purchase books and supplies, pay housing costs, and meet other expenses.

(6) Voter Registration Dissemination.

This bill clarifies that institutions can use electronic means to meet the requirement to disseminate voter registration forms to students. Electronic means will ensure that dissemination to students occurs both effectively and efficiently.

ELIMINATE OR ALTER THE FOLLOWING REPORTING REQUIREMENTS IN THE HEA

(1) Application of Change of Ownership to non-profit institutions

The Department of Education applies provisions concerning change of institutional ownership to nonprofit institutions, despite clear expression of contrary congressional intent and the common understanding that nonprofit institutions do not have owners. This places unnecessary burdens on institutions, and may act as a deterrent to governance changes intended to make institutions more efficient and effective.

(2) Disclosure of Foreign Gifts

When an institution receives a foreign gift in excess of $250,000 they must report it to the federal government. This data is publicly available in the annual reports prepared by every college and university and is carefully monitored for public institutions by state governments. The Department of Education reports that it never gets public requests for this information. Institutions will no longer be required to provide this information to the federal government, but make it publicly available on an annual basis.

By Mr. FRIST (for himself, Mrs. CLINTON, Mr. MARTINEZ, Mr. BINGAMAN, Mr. TALENT, Ms. MIKULSKI, Mr. THUNE, and Mr. OBAMA):

S. 1262. A bill to reduce healthcare costs, improve efficiency, and improve healthcare quality through the development of a nation-wide interoperable health information technology system, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, this morning I am pleased to be joined on the floor by my distinguished colleague from the State of New York. Together we share an important goal to improve health care quality and reduce costs through the use of health information technology tools.

I had the wonderful opportunity of spending 20 years as a physician and as a heart surgeon before coming to this body. Like most physicians, I wanted to and, in fact, did use the very latest, most advanced technology, anything that could possibly, in my practice, make my patients live a healthier life, a better life, a more comfortable life.

But amidst the artificial heart assist devices, the lasers that are used to remove lesions in the windpipe or the trachea, CT scan machines, x-rays, digital x-rays, digital thermometers, doctors today, unfortunately, for the most part, keep patient records the very same way I did 10 years ago and, indeed, almost exactly as my dad did 60 years ago as he practiced medicine, and that is handwritten on paper in manila folders, typically stored in the basements of clinics or doctors' offices or hospitals.

It is amazing because we design hospitals, structures on computers today, we conduct medical research with computers, we use computers in nearly every aspect of the clinical setting, the delivery of medicine. From very compact bedside monitors to these massive MRI scanners we have today, computers power almost everything we use, everything we do in terms of diagnosis in medicine, in health care.

But—and this is what we have come to the floor to address—when it comes to health information, when it comes to electronic medical records, we are in the stone age and not the information age.

Imagine a traveler far away from home who gets in an automobile accident and is taken unconscious or confused to a hospital. Paramedics rush them to a hospital, and at the very moment that individual arrives at the door of that emergency room, the emergency room physician meets them, but emptyhanded, with no notification of allergies or past medical history or preexisting illnesses, all of which is potentially lifesaving information. That is inexcusable in this day and age.

My colleague from New York knows this all too well.

Mrs. CLINTON. Mr. President, I wish to express my appreciation to Senator FRIST for his leadership on this issue because we certainly do need to bring our health care system out of the information dark ages. I am pleased to be introducing this legislation today with the majority leader. It is a priority for both of us, and I look forward to continuing our partnership to move this legislation through the legislative process.

For several years, I have been promoting the adoption of health information technology as a means to improve our health care system and bring it into the 21st century. I introduced health quality and information technology legislation in 2003 to jump-start the conversation on health IT. I am very pleased that I have had the opportunity now to work with the majority leader for more than a year on realizing what we believe would work, that would enable patients, physicians, nurses, hospitals—all—to have access electronically in a privacy-protected way to health information.

We have a lot of challenges facing us in health care. We have a long way to go to achieve the goal of expanding access to quality, affordable health care for all Americans. But creating a health information technology infrastructure needs to be a key part of achieving our health care goals because we are facing an escalating health care crisis.

Information technology has radically changed business and other aspects of our lives. It is time to use it to bring our health sector into the information age.

Currently, the health industry spends 2 to 3 percent of its revenues on information technology, compared to roughly 12 percent in industries such as finance or banking. That is why you can go to an ATM virtually anywhere in the world and access money from your bank account.

But despite evidence that greater investments could yield returns, we have not put in place the necessary infrastructure to facilitate the necessary investment in an interoperable health information technology and quality infrastructure.

Mr. FRIST. Mr. President, this needs to change and it must change. We must establish an interoperable privacy-protected electronic medical record for every American who wants one. Working together, our Nation can confront these challenges, and we can build an interoperable national health information technology system. We know it will save lives. We know it will save money. It will improve quality and it will lead to huge measurable progress in the medical field, in the health field.

We face enormous problems as a result of the underinvestment in health information technology. No industry as important to our economy as health spends as little on information technology. Our Nation has nearly 900,000 doctors and over 2.8 million nurses. Americans visit a doctor 900 million times per year. We have nearly 6,000 hospitals all over the country. Our health care system is enormous, yes, but it is dangerously fragmented. Even a small efficiency improvement can greatly reduce cost and improve quality, and there is plenty of room for improvement.

Mrs. CLINTON. Mr. President, I could not agree more. The majority leader comes to this debate with a lifetime of experience and expertise. Researchers at Dartmouth University found that we waste as much as one-third of the $1.8 trillion we spend on health care on care that is not necessary.

Doctors write over 2 billion prescriptions each year by hand. With all respect to my doctors, some are unclear or even illegible. Handwritten prescriptions filled incorrectly result in as many as 7,000 deaths each year because we do not have access to a fail-safe system so that providing the prescription electronically, which also would trigger a response if it was interacting with another drug the patient was taking, is not yet available.

With that data, it is difficult, sometimes even impossible, to track the quality of care patients receive. We cannot reward good providers or work to improve those who provide inferior care.

Widening health care disparities really are a growing problem in our society. It is especially important because every moment that a doctor or a nurse spends with a patient is precious. For every hour that they spend with a patient, they spend one-half hour filling out those forms by hand. So we can save time, we can save money, and we can make it clear that this information will be easily electronically transportable where it is needed.

Mr. FRIST. The problem is enormous and the problem is real. So what are we going to do about it? Senator CLINTON and I propose three concrete steps to remedy these problems and establish a fully interoperable information technology system. First, we must establish standards for electronic medical records. Sharing data effectively requires more than just that fiber optic

cable, more than those Internet connections. It requires standards and laws that make it possible to exchange medical information in a privacy-protected way throughout our Nation.

The Government should not impose these standards on the private sector, but it has a duty, and indeed it has an obligation, to lead the way. Medicare, Medicaid, SCHIP, the Indian Health Service, and other Federal programs should lead the way and establish electronic health records for all of their clients.

The Veterans' Administration already leads the way with interoperable systems, but we need to get the VA to be able to talk to the Department of Defense.

Mrs. CLINTON. That is absolutely the case, especially as we tragically know so many young people who have been injured in Iraq or Afghanistan move from the DOD to the VA. We have to have a better system so that they can know what needs to be done for these brave young men and women.

Secondly, we believe our legislation should work to reduce barriers and facilitate the electronic exchange of health information among providers in a secure and private way to improve health care quality and meet community needs. When communities come together, as is beginning to happen all over the country, the Federal Government should help them implement an interoperable health IT system.

Interoperable sounds like a confusing word, but it means they can talk to each other, they can operate in the same overall system and do it in a way that complies with national standards. To speed up this process, we propose spending a total of $600 million—$125 million a year, over 5 years—to begin the work of rolling out interoperable electronic medical records systems around the Nation.

Finally, we must use the data we collect to focus intensely on improving the quality of health care. Our medical system, which is, and deserves to be, the envy of the world, still suffers from enormous and unpardonable disparities in the quality of care. Health IT will be a tool to help our dedicated health care professionals improve care, and efficiently, so that they spend more time at the bedside, more time at the office visit, and less on paperwork.

Through this legislation, we will begin to collect consistent data on the quality of health care delivered in America. As the largest health care payer in the country, the Federal Government has a responsibility to begin that process of collecting data on its own health care programs and share it with the public. Then, with this data, we can begin to move to a health care system that actually rewards providers who give their patients superior care.

Mr. FRIST. Mr. President, as we talk about these systems and standards and words such as interoperability, which, as the Senator from New York said, does mean being able to connect it all together, people who are listening must ask: Well, how in the world do these electronic health records and the appropriate use of that data bring concrete benefits to them as individuals and to their families?

First, it will reduce waste and inefficiency in the system. It only makes sense that fragmented systems, with no interconnectivity at all, have inherent inefficiencies and waste. That is moved aside. That has a very direct impact on lower costs, making health care more affordable and thus available for people broadly.

It improves quality. Right now we know that medical errors occur. Too many medical errors occur in our health care system today. By the application of technology, we can move those medical errors aside. They will not occur and that improves quality.

They will empower patients. It gives that individual who is listening right now the knowledge and power to be able to participate in a consumer-driven system where choices can be made, where the focus is on the patient, that is provider friendly, that is driven by information and choice and empowerment to make that choice.

They will protect patient privacy and promote the secure exchange of lifesaving health information. It is spelled out in the legislation. It is going to be privacy protected.

For the first time, they will seamlessly integrate this advancement in health information technology with quality measures, with quality advancements, harmonizing and integrating them in a way that simply has not been done in the past.

This proposal brings together people, as we can see, from across the political spectrum, and it will unlock the potential of medical information technology for all Americans.

Mrs. CLINTON. I am delighted to be working on this very important national initiative with the majority leader because we are at a pivotal moment. Pockets of innovation and investment are developing all over the country. In my State, places like Rochester, NY, and in the majority leader's State, the Tri-Cities region of Tennessee, health care providers, employers and community groups are beginning the process of building a health information technology network. That is a positive first step, but it could be either a last step or a misstep because to truly achieve the promise of health information technology, we must ensure that these efforts do not become silos. In other words, there is one system for every hospital, one system for every clinical practice. They cannot talk to each other. So a person goes to one doctor. Their doctor is in New York, but they travel to Tennessee to visit friends, they are in an accident, and nobody knows how to get the information that will give them the best possible treatment.

So if we do this right, this comprehensive legislation will create a health information technology framework that improves quality, protects patient privacy and ensures interoperability through the adoption of health IT standards and quality measures.

We are marrying technology and quality to create a seamless, efficient health care system for the 21st century. I thank the majority leader, who has brought so much interest and expertise to this, for being a leader and making this happen in the next 18 months.

Mr. FRIST. I thank my colleague in this endeavor. As mentioned earlier, we began working on the information technology aspects of health care about a year ago and published our first op-ed together about July of last year.

In closing, this is not going to be an easy process. I look back at the technology in my past in medicine for 20 years, but then also in my dad's practice; he practiced medicine for 55 years. I remember he had one of the very earliest electrocardiogram, EKG, machines in the State of Tennessee. At that time—because there were so few machines and so few cardiologists—he would take referrals from all over the State of Tennessee. The machine itself was bigger than the desk before me, at the time.

What would happen then is, if there was a machine in a little rural community 100 miles away from Nashville, the machine there would take a piece of paper, they would run it through, they would send it by mail. It would take 2 days to get to Nashville. Dad would read it and send it back. Four days later, that doctor would be able to read that EKG.

Then, when I was about 9 or 10 years of age—because their bedroom was right around the corner from mine—I remember so well when he installed a telephone to put another big box there to have the first in Tennessee again of a machine—and it was amazing at the time—one could transmit these EKGs electronically over the telephone wire and have it interpreted at the bedside. He would keep it there because people, of course, have heart attacks in the middle of the night. Then it would take probably about 30 or 40 minutes to get the result back.

Of course, today we are at a point where with a little tiny machine, an EKG machine, we can get an instantaneous readout not just of the paper and of the EKG but the result actually read by the box.

I have been able to see huge progress in my own life and watching my dad's practice and my practice. Now we need to see all of that sort of progress condensed, applied not just to the technology but to the collection of information, the promotion of electronic health records, and the appropriate sharing of that information which is privacy protected. That is the sort of progress we are going to see. We are going to see it come alive on the Senate floor and with the House and work

in concert with the President of the United States to make sure that the great advantages, in terms of lowering costs, getting rid of inefficiencies, and promoting quality will be realized.

The bill that we will shortly introduce does present a comprehensive approach of medical information and the use of medical information as we address our health care challenges. It provides that important backbone and critical building block for a better, a stronger, and a more responsive health care system for all Americans.

Again, I thank my distinguished colleague from New York. We urge all of our colleagues to look at this bill and support this bill. With this legislation, there is no doubt in my mind that we will, yes, help save money and help save time, but most importantly we will save lives.

I ask unanimous consent that the text of the bill we will shortly send to the desk be printed in the RECORD.

Mr. OBAMA. Mr. President, I am proud to join Senators FRIST and CLINTON in introducing the Health Technology to Enhance Quality Act of 2005.

Our national health care system is in crisis. Forty-five million Americans are uninsured, and this number continues to rise. Health care costs are increasing at almost double digit rates. Millions of Americans are suffering, and dying, from diseases such as diabetes or AIDS that could have been prevented or delayed for many years. And the chance of Americans receiving the right care, at the right time and for the right reason is no greater than the flip of a coin.

These health care issues are varied and complex, as are the solutions. But, as one of my constituents advised, it is time for us in the Congress to put on our hard hats, pick up our tool belts and get to work fixing our broken health care system.

One place to start is by bringing the health care system into the 21st century. In our lifetimes, we have seen some of the greatest advances in the history of technology and the sharing of information. Yet, in our health care system, too much care is still provided with a pen and paper. Too much information about patients is not shared between doctors or readily available to them in the first place. And providers too often do not have the information to know what care has worked most effectively and efficiently to make patients healthy.

Mistakes are easily made—medical errors alone kill up to 98,000 people a year, more people than the number who die from AIDS each year.

But embracing 21st century technology is not just about reducing errors and improving the quality of medical care. It is also about cost.

We spend nearly $1.5 trillion a year on health care in America. But a quarter of that money—one out of every four dollars—is spent on non-medical costs—most of it on bills and paperwork. Every transaction you make at a bank now costs them less than a penny. Yet, because we have not updated technology in the rest of the health care industry, a single transaction still costs up to $25—not one dime of which goes toward improving the quality of our health care.

The Health Technology to Enhance Quality Act of 2005 is going to help bring the health care system into the 21st century. This bill will lead to the development and implementation of health information technology standards to ensure interoperability of health information systems. The legislation codifies the Office of National Coordinator for Information Technology and establishes standards for the electronic exchange of health information. The bill also provides grant funding to support development of health information technology infrastructure as well as measurement of the quality of care provided to patients.

This legislation will help our health care system take a huge step forward. A vote for the Health TEQ Act is a vote for health care that is safe, effective, and affordable. I urge my colleagues to join us in passing this bill quickly.

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

S. 1262

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 ''Health Technology to Enhance Quality Act of 2005'' or the ''Health TEQ Act of 2005''.

TITLE I—HEALTH INFORMATION TECHNOLOGY STANDARDS ADOPTION AND INFRASTRUCTURE DEVELOPMENT

SEC. 101. ESTABLISHMENT OF NATIONAL COORDINATOR; RECOMMENDATION, ADOPTION, AND IMPLEMENTATION OF HEALTH INFORMATION ELECTRONIC EXCHANGE STANDARDS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXIX—HEALTH INFORMATION TECHNOLOGY

''SEC. 2901. DEFINITIONS.

''For purposes of this title:

''(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning giving that term in section 2791.

''(2) HEALTHCARE PROVIDER.—The term 'healthcare provider' means a hospital, skilled nursing facility, home health entity, healthcare clinic, community health center, group practice (as defined in section 1877(h)(4) of the Social Security Act), a physician (as defined in section 1861(r)(1) of the Social Security Act), a pharmacist, a pharmacy, a laboratory, and any other category of facility or clinician determined appropriate by the Secretary.

''(3) HEALTH INFORMATION.—The term 'health information' means any information, recorded in any form or medium, that relates to the past, present, or future physical or mental health or condition of an individual, the provision of healthcare to an individual, or the past, present, or future payment for the provision of healthcare to an individual.

''(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given that term in section 2791.

''(5) LABORATORY.—The term 'laboratory' has the meaning given that term in section 353.

''(6) PHARMACIST.—The term 'pharmacist' has the meaning given that term in section 804 of the Federal Food, Drug, and Cosmetic Act.

''SEC. 2902. OFFICE OF THE NATIONAL COORDINATOR OF HEALTH INFORMATION TECHNOLOGY.

''(a) OFFICE OF NATIONAL HEALTH INFORMATION TECHNOLOGY.—There is established within the Office of the Secretary an Office of the National Coordinator of Health Information Technology (referred to in this section as the 'Office'). The Office shall be headed by a National Coordinator who shall be appointed by the President in consultation with the Secretary and shall report directly to the Secretary.

''(b) PURPOSE.—It shall be the purpose of the Office to carry out programs and activities to develop a nationwide interoperable health information technology infrastructure that—

''(1) improves healthcare quality, reduces medical errors, and advances the delivery of patient-centered medical care;

''(2) reduces healthcare costs resulting from inefficiency, medical errors, inappropriate care, and incomplete information;

''(3) ensures that appropriate information to help guide medical decisions is available at the time and place of care;

''(4) promotes a more effective marketplace, greater competition, and increased choice through the wider availability of accurate information on healthcare costs, quality, and outcomes;

''(5) improves the coordination of care and information among hospitals, laboratories, physician offices, and other entities through an effective infrastructure for the secure and authorized exchange of healthcare information;

''(6) improves public health reporting and facilitates the early identification and rapid response to public health threats and emergencies, including bioterror events and infectious disease outbreaks;

''(7) facilitates health research; and

''(8) ensures that patients' health information is secure and protected.

''(c) DUTIES OF NATIONAL COORDINATOR.—

''(1) IN GENERAL.—The National Coordinator shall—

''(A) facilitate the adoption of a national system for the electronic exchange of health information;

''(B) serve as the principal advisor to the Secretary on the development, application, and use of health information technology, and coordinate and oversee the health information technology programs of the Department;

''(C) ensure the adoption and implementation of standards for the electronic exchange of health information, including coordinating the activities of the Standards Working Group under section 2903;

''(D) carry out activities related to the electronic exchange of health information that reduce cost and improve healthcare quality;

''(E) ensure that health information technology policy and programs of the Department are coordinated with those of relevant executive branch agencies (including Federal commissions) with a goal of avoiding duplication of efforts and of helping to ensure that each agency undertakes health information technology activities primarily within the areas of its greatest expertise and technical capability;

''(F) to the extent permitted by law, coordinate outreach and consultation by the relevant executive branch agencies (including Federal commissions) with public and

private parties of interest, including consumers, payers, employers, hospitals and other healthcare providers, physicians, community health centers, laboratories, vendors and other stakeholders;

''(G) advise the President regarding specific Federal health information technology programs; and

''(H) submit the reports described under paragraph (2).

''(2) REPORTS TO CONGRESS.—The National Coordinator shall submit to Congress, on an annual basis, a report that describes—

''(A) specific steps that have been taken to facilitate the adoption of a nationwide system for the electronic exchange of health information;

''(B) barriers to the adoption of such a nationwide system; and

''(C) recommendations to achieve full implementation of such a nationwide system.

''(d) DETAIL OF FEDERAL EMPLOYEES.—

''(1) IN GENERAL.—Upon the request of the National Coordinator, the head of any Federal agency is authorized to detail, with or without reimbursement from the Office, any of the personnel of such agency to the Office to assist it in carrying out its duties under this section.

''(2) EFFECT OF DETAIL.—Any such detail shall—

''(A) not interrupt or otherwise affect the civil service status or privileges of the Federal employee; and

''(B) be in addition to any other staff of the Department employed by the National Coordinator.

''(3) ACCEPTANCE OF DETAILEES.—Notwithstanding any other provision of law, the Office may accept detailed personnel from other Federal agencies without regard to whether the agency described under paragraph (1) is reimbursed.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the activities of the Office under this section for each of fiscal years 2006 through 2010.

''SEC. 2903. COLLABORATIVE PROCESS FOR THE RECOMMENDATION, ADOPTION, AND IMPLEMENTATION OF HEALTH INFORMATION STANDARDS.

''(a) ESTABLISHMENT OF WORKING GROUP.—Not later than 60 days after the date of enactment of this title, the National Coordinator, in consultation with the Director of the National Institute of Standards and Technology (referred to in this section as the 'Director'), shall establish a permanent Electronic Health Information Standards Development Working Group (referred to in this title as the 'Standards Working Group').

''(b) COMPOSITION.—The Standards Working Group shall be composed of—

''(1) the National Coordinator, who shall serve as the chairperson of the Standards Working Group;

''(2) the Director;

''(3) representatives of the relevant Federal agencies and departments, as selected by the Secretary in consultation with the National Coordinator, including representatives of the Department of Veterans Affairs, the Department of Defense, the Office of Management and Budget, the Department of Homeland Security, and the Environmental Protection Agency;

''(4) private entities accredited by the American National Standards Institute, as selected by the National Coordinator;

''(5) representatives, as selected by the National Coordinator—

''(A) of group health plans or other health insurance issuers;

''(B) of healthcare provider organizations;

''(C) with expertise in health information security;

''(D) with expertise in health information privacy;

''(E) with experience in healthcare quality and patient safety, including those with experience in utilizing health information technology to improve healthcare quality and patient safety;

''(F) of consumer and patient organizations;

''(G) of employers;

''(H) with experience in data exchange; and

''(I) with experience in developing health information technology standards and new health information technology; and

''(6) other representatives as determined appropriate by the National Coordinator in consultation with the Secretary.

''(c) STANDARDS DEEMED ADOPTED.—On the date of enactment of this title, the Secretary and the Standards Working Group shall deem as adopted, for use by the Secretary and private entities, the standards adopted by the Consolidated Health Informatics Initiative prior to such date of enactment.

''(d) DUTIES.—

''(1) FIRST YEAR REVIEW.—Not later than 1 year after the date of enactment of this title, the Standards Working Group shall—

''(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information, including such standards deemed adopted under subsection (c);

''(B) identify deficiencies and omissions in such existing standards;

''(C) identity duplications and omissions in existing standards, and recommend modifications to such standards as necessary; and

''(D) submit a report to the Secretary recommending for adoption by such Secretary and private entities—

''(i) modifications to the standards deemed adopted under subsection (c); and

''(ii) any additional standards reviewed pursuant to this paragraph.

''(2) ONGOING REVIEW.—Beginning 1 year after the date of enactment of this title, and on an ongoing basis thereafter, the Standards Working Group shall—

''(A) review existing standards (including content, communication, and security standards) for the electronic exchange of health information, including such standards adopted by the Secretary under subsections (c) and (e);

''(B) identify deficiencies and omissions in such existing standards;

''(C) identity duplications and omissions in existing standards, and recommend modifications to such standards as necessary; and

''(D) submit reports to the Secretary recommending for adoption by such Secretary and private entities—

''(i) modifications to any existing standards; and

''(ii) any additional standards reviewed pursuant to this paragraph.

''(3) LIMITATION.—The standards described under this subsection shall not include any standards developed pursuant the Health Insurance Portability and Accountability Act of 1996.

''(e) ADOPTION BY SECRETARY.—Not later than 1 year after the receipt of a report from the Standards Working Group under paragraph (1)(D) or (2)(D) of subsection (d), the Secretary shall review and provide for the adoption by the Federal Government of any modification or standard recommended in such report.

''(f) VOLUNTARY ADOPTION.—Any standards adopted by the Secretary under this section shall be voluntary for private entities.

''(g) APPLICATION OF FACA.—

''(1) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Standards Working Group established under this section.

''(2) LIMITATION.—Notwithstanding paragraph (1), the 2-year termination date under section 14 of the Federal Advisory Committee Act shall not apply to the Standards Working Group.

''SEC. 2904. IMPLEMENTATION AND CERTIFICATION OF HEALTH INFORMATION STANDARDS.

''(a) IMPLEMENTATION.—

''(1) IN GENERAL.—The Secretary, in consultation with the National Coordinator and the Director of the National Institute of Standards and Technology, shall develop criteria to ensure uniform and consistent implementation of any standards for the electronic exchange of health information voluntarily adopted by private entities in technical conformance with such standards adopted under this title.

''(2) IMPLEMENTATION ASSISTANCE.—The Secretary may recognize a private entity or entities to assist private entities in the implementation of the standards adopted under this title.

''(b) CERTIFICATION.—

''(1) IN GENERAL.—The Secretary, in consultation with the National Coordinator and the Director of the National Institute of Standards and Technology shall develop criteria to ensure and certify that hardware, software, and support services that claim to be in compliance with any standard for the electronic exchange of health information adopted under this title have established and maintain such compliance in technical conformance with such standard.

''(2) CERTIFICATION ASSISTANCE.—The Secretary may recognize a private entity or entities to assist in the certification described under paragraph (1).

''(c) DELEGATION AUTHORITY.—The Secretary may delegate the development of the criteria under subsection (a) and (b) to a private entity.

''SEC. 2905. AUTHORITY FOR COORDINATION AND SPENDING.

''(a) IN GENERAL.—The Secretary acting through the National Coordinator—

''(1) shall direct and coordinate—

''(A) Federal spending related to the development, adoption, and implementation of standards for the electronic exchange of health information; and

''(B) the adoption of the recommendations submitted to such Secretary by the Standards Working Group established under section 2903; and

''(2) may utilize the entities recognized under section 2904 to assist in implementation and certification related to the implementation by the Federal Government of the standards adopted by the Secretary under this title.

''(b) LIMITATION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, no Federal agency shall expend Federal funds for the purchase of hardware, software, or support services for the purpose of implementing a standard related to the electronic exchange of health information that is not a standard adopted by the Secretary under section 2903.

''(2) EFFECTIVE DATE.—The limitation under paragraph (1) shall take effect not later than 1 year after the adoption by the Secretary of such standards under section 2903.''.

SEC. 102. ENCOURAGING SECURE EXCHANGE OF HEALTH INFORMATION.

(a) STUDY AND GRANT PROGRAMS RELATED TO STATE HEALTH INFORMATION LAWS AND PRACTICES.—

(1) STUDY OF STATE HEALTH INFORMATION LAWS AND PRACTICES.—

(A) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the ''Secretary'') shall carry out, or contract with a private entity to carry out, a study that examines—

(i) the variation among State laws and practices that relate to the privacy, confidentiality, and security of health information;

(ii) how such variation among State laws and practices may impact the electronic exchange of health information (as defined in section 2901 of the Public Health Service Act) (as added by section 101)—

(I) among the States;

(II) between the States and the Federal Government; and

(III) among private entities; and

(iii) how such laws and practices may be harmonized to permit the secure electronic exchange of health information.

(B) REPORT AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(i) describes the results of the study carried out under subparagraph (A); and

(ii) makes recommendations based on the results of such study.

(2) SECURE EXCHANGE OF HEALTH INFORMATION; INCENTIVE GRANTS.—Title XXIX of the Public Health Service Act (as added by section 101) is amended by adding at the end the following:

''SEC. 2906. SECURE EXCHANGE OF HEALTH INFORMATION; INCENTIVE GRANTS.

''(a) IN GENERAL.—The Secretary may make grants to States to carry out programs under which such States cooperate with other States to develop and implement State policies that will facilitate the secure electronic exchange of health information utilizing the standards adopted under section 2903—

''(1) among the States;

''(2) between the States and the Federal Government; and

''(3) among private entities.

''(b) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to States that provide assurance that any funding awarded under such a grant shall be used to harmonize privacy laws and practices between the States, the States and the Federal Government, and among private entities related to the privacy, confidentiality, and security of health information.

''(c) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information regarding the efficacy of efforts of a recipient of a grant under this section.

''(d) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to recipients of a grant under this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.''.

(b) STUDY AND GRANT PROGRAMS RELATED TO STATE LICENSURE LAWS.—

(1) STUDY OF STATE LICENSURE LAWS.—

(A) IN GENERAL.—The Secretary shall carry out, or contract with a private entity to carry out, a study that examines—

(i) the variation among State laws that relate to the licensure, registration, and certification of medical professionals; and

(ii) how such variation among State laws impacts the secure electronic exchange of health information (as defined in section 2901 of the Public Health Service Act) (as added by section 101)—

(I) among the States; and

(II) between the States and the Federal Government.

(B) REPORT AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish a report that—

(i) describes the results of the study carried out under subparagraph (A); and

(ii) makes recommendations to States regarding the harmonization of State laws based on the results of such study.

(2) REAUTHORIZATION OF INCENTIVE GRANTS REGARDING TELEMEDICINE.—Section 330L(b) of the Public Health Service Act (42 U.S.C. 254c–18(b)) is amended by striking ''2002 through 2006'' and inserting ''2006 through 2010''.

(3) HIPAA APPLICATION TO ELECTRONIC HEALTH INFORMATION.—Title XXIX of the Public Health Service Act (as added by section 101 and amended by subsection (a)) is further amended by adding at the end the following:

''SEC. 2907. APPLICABILITY OF PRIVACY AND SECURITY REGULATIONS.

''The regulations promulgated by the Secretary under part C of title XI of the Social Security Act and sections 261, 262, 263, and 264 of the Health Insurance Portability and Accountability Act of 1996 with respect to the privacy, confidentiality, and security of health information shall—

''(1) apply to any health information stored or transmitted in an electronic format as of the date of enactment of this title; and

''(2) apply to the implementation of standards, programs, and activities under this title.''.

(c) STUDY AND REPORT.—

(1) STUDY.—Not later than 2 years after the date of enactment of this Act, the Secretary shall carry out, or contract with a private entity to carry out, a study that examines the integration of the standards adopted under the amendments made by this Act with the standards adopted under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

(2) PLAN; REPORT.—

(A) PLAN.—Not later than 3 years after the date of enactment of this Act, the Secretary shall, based on the results of the study carried out under paragraph (1), develop a plan for the integration of the standards described under such paragraph and submit a report to Congress describing such plan.

(B) PERIODIC REPORTS.—The Secretary shall submit periodic reports to Congress that describe the progress of the integration described under subparagraph (A).

TITLE II—FACILITATING THE ADOPTION AND IMPLEMENTATION OF INTEROPERABLE ELECTRONIC HEALTH INFORMATION

SEC. 201. GRANTS FOR THE IMPLEMENTATION OF REGIONAL OR LOCAL HEALTH INFORMATION TECHNOLOGY PLANS.

Title XXIX of the Public Health Service Act (as amended by section 102) is further amended by adding at the end the following:

''SEC. 2908. GRANTS FOR THE IMPLEMENTATION OF REGIONAL OR LOCAL HEALTH INFORMATION TECHNOLOGY PLANS.

''(a) IN GENERAL.—The Secretary, in consultation with the National Coordinator, may award competitive grants to eligible entities to implement regional or local health information plans to improve healthcare quality and efficiency through the electronic exchange of health information pursuant to the standards, protocols, and other requirements adopted by the Secretary under sections 2903 and 2910.

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

''(1) demonstrate financial need to the Secretary;

''(2) demonstrate that one of its principal missions or purposes is to use information technology to improve healthcare quality and efficiency;

''(3) adopt bylaws, memoranda of understanding, or other charter documents that demonstrate that the governance structure and decisionmaking processes of such entity allow for participation on an ongoing basis by multiple stakeholders within a community, including—

''(A) physicians (as defined in section 1861(r)(1) of the Social Security Act), including physicians that provide services to low income and underserved populations;

''(B) hospitals (including hospitals that provide services to low income and underserved populations);

''(C) group health plans or other health insurance issuers;

''(D) health centers (as defined in section 330(b)) and Federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act);

''(E) rural health clinics (as defined in section 1861(aa) of the Social Security Act);

''(F) consumer organizations;

''(G) employers; and

''(H) any other healthcare providers or other entities, as determined appropriate by the Secretary;

''(4) adopt nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory participation in the health information plan by all stakeholders;

''(5) adopt the national health information technology standards adopted by the Secretary under section 2903;

''(6) facilitate the electronic exchange of health information within the local or regional area and among local and regional areas;

''(7) prepare and submit to the Secretary an application in accordance with subsection (c); and

''(8) agree to provide matching funds in accordance with subsection (e).

''(c) APPLICATION.—

''(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(2) REQUIRED INFORMATION.—At a minimum, an application submitted under this subsection shall include—

''(A) clearly identified short-term and long-term objectives of the regional or local health information plan;

''(B) a technology plan that complies with the standards adopted under section 2903 and that includes a descriptive and reasoned estimate of costs of the hardware, software, training, and consulting services necessary to implement the regional or local health information plan;

''(C) a strategy that includes initiatives to improve healthcare quality and efficiency, including the use of healthcare quality measures adopted under section 2910;

''(D) a plan that describes provisions to encourage the implementation of the electronic exchange of health information by all physicians, including single physician practices and small physician groups participating in the health information plan;

''(E) a plan to ensure the privacy and security of personal health information that is consistent with Federal and State law;

''(F) a governance plan that defines the manner in which the stakeholders shall jointly make policy and operational decisions on an ongoing basis; and

''(G) a financial or business plan that describes—

''(i) the sustainability of the plan;

''(ii) the financial costs and benefits of the plan; and

''(iii) the entities to which such costs and benefits will accrue.

''(d) USE OF FUNDS.—Amounts received under a grant under subsection (a) shall be used to establish and implement a regional

or local health information plan in accordance with this section.

''(e) MATCHING REQUIREMENT.—

''(1) IN GENERAL.—The Secretary 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 infrastructure program for which the grant was awarded, the entity will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than 50 percent of such costs ($1 for each $2 of Federal funds provided under the grant).

''(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including equipment, technology, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $125,000,000 for each of fiscal years 2006 through 2010.

''(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available for obligation until expended.

''SEC. 2909. REPORTS.

''Not later than 1 year after the date on which the first grant is awarded under section 2908, and annually thereafter during the grant period, an entity that receives a grant under such section shall submit to the Secretary, acting through the National Coordinator, a report on the activities carried out under the grant involved. Each such report shall include—

''(1) a description of the financial costs and benefits of the project involved and of the entities to which such costs and benefits accrue;

''(2) an analysis of the impact of the project on healthcare quality and safety;

''(3) a description of any reduction in duplicative or unnecessary care as a result of the project involved; and

''(4) other information as required by the Secretary.''.

SEC. 202. EXCEPTION FOR THE PROVISION OF PERMITTED SUPPORT.

(a) EXEMPTION FROM CRIMINAL PENALTIES.—Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking ''and'' at the end;

(B) in subparagraph (H), as added by section 237(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2213)—

(i) by moving such subparagraph 2 ems to the left; and

(ii) by striking the period at the end and inserting a semicolon;

(C) by redesignating subparagraph (H), as added by section 431(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2287), as subparagraph (I);

(D) in subparagraph (I), as so redesignated—

(i) by moving such subparagraph 2 ems to the left; and

(ii) by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following new:

''(J) subject to paragraph (4), the provision, with or without charge, of any permitted support (as defined in paragraph (4)(A) and subject to the conditions in paragraph (4)(B)) to an entity or individual for developing, implementing, operating, or facilitating the electronic exchange of health information (as defined in section 2901 of the Public Health Service Act), so long as such support is primarily designed to promote the electronic exchange of health information.''; and

(2) by adding at the end the following:

''(4) PERMITTED SUPPORT.—

''(A) DEFINITION OF PERMITTED SUPPORT.—In this section, the term 'permitted support' means the provision of, or funding used exclusively to provide or pay for, any equipment, item, information, right, license, intellectual property, software, or service, regardless of whether any such support may have utility or value to the recipient for any purpose beyond the exchange of health information (as defined in section 2901 of the Public Health Service Act).

''(B) CONDITIONS ON PERMITTED SUPPORT.—Paragraph (3)(J) shall not apply unless the following conditions are met:

''(i) The provision of permitted support is not conditioned on the recipient of such support making any referral to, or generating any business for, any entity or individual for which any Federal health care program provides reimbursement.

''(ii) The permitted support complies with the standards for the electronic exchange of health information adopted by the Secretary under section 2903 of the Public Health Service Act.

''(iii) The entity or network receiving permitted support is able to document that such support is used by the entity or the network for the electronic exchange of health information in accordance with the standards adopted by the Secretary under section 2903 of the Public Health Service Act.''.

(b) EXEMPTION FROM LIMITATION ON CERTAIN PHYSICIAN REFERRALS.—Section 1877(e) of the Social Security Act (42 U.S.C. 1395nn(e)) is amended by adding at the end the following:

''(9) PERMITTED SUPPORT.—The provision of permitted support (as described in section 1128B(b)(3)(J)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to permitted support provided on or after the date of enactment of this Act.

SEC. 203. GROUP PURCHASING.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a safe harbor for group purchasing of hardware, software, and support services for the electronic exchange of health information in compliance with section 2903 of the Public Health Service Act (as added by section 101).

(b) CONDITIONS.—In establishing the safe harbor under subsection (a), the Secretary shall establish conditions on such safe harbor consistent with the purposes of—

(1) improving healthcare quality;

(2) reducing medical errors;

(3) reducing healthcare costs;

(4) improving the coordination of care;

(5) streamlining administrative processes; and

(6) promoting transparency and competition.

SEC. 204. PERMISSIBLE ARRANGEMENTS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and notwithstanding any other provision of law, the Secretary shall establish guidelines in compliance with section 2903 of the Public Health Service Act that permit certain arrangements between group health plans and health insurance issuers (as defined in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91)) and between healthcare providers (as defined in section 2901 of such Act, as added by section 101) in accordance with subsection (b).

(b) CONDITIONS.—In establishing the guidelines under subsection (a), the Secretary shall establish conditions on such arrangements consistent with the purposes of—

(1) improving healthcare quality;

(2) reducing medical errors;

(3) reducing healthcare costs;

(4) improving the coordination of care;

(5) streamlining administrative processes; and

(6) promoting transparency and competition.

TITLE III—ADOPTION, IMPLEMENTATION, AND USE OF HEALTHCARE QUALITY MEASURES

SEC. 301. STANDARDIZED MEASURES.

Title XXIX of the Public Health Service Act (as amended by section 201) is further amended by adding at the end the following:

''SEC. 2910. COLLABORATIVE PROCESS FOR THE DEVELOPMENT, RECOMMENDATION, AND ADOPTION OF STANDARDIZED MEASURES OF QUALITY HEALTHCARE.

''(a) IN GENERAL.—

''(1) COLLABORATION.—The Secretary, the Secretary of Defense, the Secretary of Veterans Affairs, and any other heads of relevant Federal agencies as determined appropriate by the President, (referred to in this section as the 'Secretaries') shall adopt, on an ongoing basis, uniform healthcare quality measures to assess the effectiveness, timeliness, patient self-management, patient-centeredness, efficiency, and safety of care delivered by healthcare providers across Federal healthcare programs, including those in titles XVIII, XIX, and XXI of the Social Security Act.

''(2) REVIEW OF MEASURES ADOPTED.—The Secretaries shall conduct an ongoing review of the measures adopted under paragraph (1).

''(3) EXISTING ACTIVITIES—Notwithstanding any other provision of law, the measures and reporting activities described in this subsection shall replace, to the extent practicable and appropriate, any duplicative or redundant existing measurement and reporting activities currently utilized by Federal healthcare programs, including those in titles XVIII, XIX, and XXI of the Social Security Act.

''(b) PRIORITY MEASURES.—

''(1) IN GENERAL.—In determining the measures to be adopted under subsection (a), and the timing of any such adoption, the Secretaries shall give priority to—

''(A) measures with the greatest potential impact for improving the quality and efficiency of care provided under Federal programs;

''(B) measures that may be rapidly implemented by group health plans, health insurance issuers, physicians, hospitals, nursing homes, long-term care providers, and other providers; and

''(C) measures which may inform healthcare decisions made by consumers and patients.

''(2) NATIONAL QUALITY FORUM MEASURES; QUALITY OF CARE INDICATORS.—To the extent determined feasible and appropriate by the Secretaries, the Secretaries shall adopt—

''(A) measures endorsed by the National Quality Forum, subject to compliance with the amendments made by the National Technology Transfer and Advancement Act of 1995; and

''(B) indicators relating to the quality of care data submitted to the Secretary by hospitals under section 1886(b)(3)(B)(vii)(II) of the Social Security Act.

''(c) COLLABORATION WITH PRIVATE ENTITIES.—

''(1) IN GENERAL.—The Secretaries may establish collaborative agreements with private entities, including group health plans

and health insurance issuers, providers, purchasers, consumer organizations, and entities receiving a grant under section 2908, to—

''(A) encourage the use of the healthcare quality measures adopted by the Secretary under this section; and

''(B) foster uniformity between the healthcare quality measures utilized in Federal programs and private entities.

''(2) USE OF MEASURES.—The measures adopted by the Secretaries under this section may apply in one or more disease areas and across delivery settings, in order to improve the quality of care provided or delivered by private entities.

''(d) COMPARATIVE QUALITY REPORTS.—Beginning on January 1, 2008, in order to make comparative quality information available to healthcare consumers, health professionals, public health officials, researchers, and other appropriate individuals and entities, the Secretaries and other relevant agencies shall provide for the aggregation, analysis, and dissemination of quality measures collected under this section. Nothing in this section shall be construed as modifying the privacy standards under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191).

''(e) EVALUATIONS.—

''(1) ONGOING EVALUATIONS OF USE.—The Secretary shall ensure the ongoing evaluation of the use of the healthcare quality measures adopted under this section.

''(2) EVALUATION AND REPORT.—

''(A) EVALUATION.—The Secretary shall, directly or indirectly through a contract with another entity, conduct an evaluation of the collaborative efforts of the Secretaries to adopt uniform healthcare quality measures and reporting requirements for federally supported healthcare delivery programs as required under this section.

''(B) REPORT.—Not later than 2 years after the date of enactment of this title, the Secretary shall submit a report to the appropriate committees of Congress concerning the results of the evaluation under subparagraph (A).''.

SEC. 302. VALUE BASED PURCHASING PROGRAMS; SENSE OF THE SENATE.

(a) MEDICARE VALUE BASED PURCHASING PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) a value based purchasing pilot program based on the reporting of quality measures pursuant to those adopted in section 2910 of the Public Health Service Act (as added by section 301) and the overall improvement of healthcare quality through the use of the electronic exchange of health information by entities (including Federally qualified health centers, as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4))) pursuant to the standards adopted under section 2903 of the Public Health Service Act (as added by section 101). Such pilot program should be based on experience gained through previous demonstration projects conducted by the Secretary, including demonstration projects conducted under sections 1866A and 1866C of the Social Security Act (42 U.S.C. 1395cc–1; 1395cc–3), section 649 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2322), and other relevant work conducted by private entities.

(2) EXPANSION.—After conducting the pilot program under paragraph (1) for not less than 2 years, the Secretary may transition and implement such program on a national basis.

(3) FUNDING.—

(A) IN GENERAL.—Payments for the costs of carrying out the provisions of this subsection shall be made from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t) (in this subsection referred to as the ''Trust Funds''), as determined appropriate by the Secretary.

(B) LIMITATION TO ENSURE BUDGET NEUTRALITY.—The Secretary shall ensure that the total amount of expenditures from the Trust Funds in a year does not exceed the total amount of expenditures from the Trust Funds that would have been made in such year if this subsection had not been enacted.

(C) MONITORING AND REPORTS.—

(i) ONGOING MONITORING BY THE SECRETARY TO ENSURE FUNDING LIMITATION IS NOT VIOLATED.—The Secretary shall continually monitor expenditures made from the Trust Funds by reason of the provisions of this subsection to ensure that the limitation described in subparagraph (B) is not violated.

(ii) REPORTS.—Not later than April 1 of each year (beginning in the year following the year in which the pilot program under paragraph (1) is implemented), the Secretary shall submit a report to Congress and the Comptroller General of the United States that includes—

(I) a detailed description of—

(aa) the total amount expended from the Trust Funds (including all amounts expended as a result of the provisions of this subsection) during the previous year compared to the total amount that would have been expended from the Trust Funds during such year if this subsection had not been enacted;

(bb) the projections of the total amount that will be expended from the Trust Funds (including all amounts that will be expended as a result of the provisions of this subsection) during the year in which the report is submitted compared to the total amount that would have been expended from the Trust Funds during the year if this subsection had not been enacted; and

(cc) specify the steps (if any) that the Secretary will take pursuant to subparagraph (D) to ensure that the limitation described in subparagraph (B) will not be violated; and

(II) a certification from the Chief Actuary of the Centers for Medicare & Medicaid Services that the descriptions under items (aa), (bb), and (cc) of subclause (I) are reasonable, accurate, and based on generally accepted actuarial principles and methodologies, including that the steps described in subclause (I)(cc) will be adequate to avoid violating the limitation described in subparagraph (B).

(D) APPLICATION OF LIMITATION.—If the Secretary determines that the provisions of this subsection will result in the limitation described in subparagraph (B) being violated in any year, the Secretary shall take appropriate steps to reduce spending that is occurring by reason of such provisions, including through reducing the scope, site, and duration of the pilot project.

(E) AUTHORITY.—The Secretary shall make necessary spending adjustments under the medicare program to recoup amounts so that the limitation described in subparagraph (B) is not violated in any year.

(b) SENSE OF THE SENATE REGARDING PHYSICIAN PAYMENTS UNDER MEDICARE.—It is the sense of the Senate that modifications to the medicare fee schedule for physicians' services under section 1848 of the Social Security Act (42 U.S.C. 1394w–4) should include provisions based on the reporting of quality measures pursuant to those adopted in section 2910 of the Public Health Service Act (as added by section 301) and the overall improvement of healthcare quality through the use of the electronic exchange of health information pursuant to the standards adopted under section 2903 of such Act (as added by section 101).

(c) MEDICAID VALUE BASED PURCHASING PROGRAMS.—

(1) IN GENERAL.—The Secretary shall authorize waivers under section 1115 of the Social Security Act (42 U.S.C. 1315) for States to establish value based purchasing programs for State medicaid programs established under title XIX of such Act (42 U.S.C. 1396 et seq.). Such programs shall be based on the reporting of quality measures pursuant to those adopted in section 2910 of the Public Health Service Act (as added by section 301) and the overall improvement of healthcare quality through the use of the electronic exchange of health information pursuant to the standards adopted under section 2903 of the Public Health Service Act (as added by section 101).

(2) WAIVER.—In authorizing such waivers, the Secretary shall waive any provisions of title XI or XIX of the Social Security Act that would otherwise prevent a State from establishing a value based purchasing program in accordance with paragraph (1).

(d) QUALITY INFORMATION SHARING.—

(1) REVIEW OF MEDICARE CLAIMS DATA.—

(A) PROCEDURES.—In order to improve the quality and efficiency of items and services furnished to medicare beneficiaires under title XVIII of the Social Security Act, the Secretary shall establish procedures to review claims data submitted under such title with respect to items and services furnished or ordered by physicians.

(B) USE OF MOST RECENT MEDICARE CLAIMS DATA.—In conducting the review under subparagraph (A), the Secretary shall use the most recent claims data that is available to the Secretary.

(2) SHARING OF DATA.—Beginning in 2006, the Secretary shall periodically provide physicians with comparative information on the utilization of items and services under such title XVIII based upon the review of claims data under paragraph (1).

SEC. 303. QUALITY IMPROVEMENT ORGANIZATION ASSISTANCE.

(a) IN GENERAL.—Section 1154(a) of the Social Security Act (42 U.S.C. 1320c–3(a)) is amended by adding at the end the following:

''(18) The organization shall assist, at such time and in such manner as the Secretary may require, healthcare providers (as defined in section 2901 of the Public Health Service Act) in implementing the electronic exchange of health information (as defined in such section 2901).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contracts entered into on or after the date of enactment of this Act.

By Mr. BOND:

S. 1263. A bill to amend the Small Business Act to establish eligibility requirements for business concerns to receive awards under the Small Business Innovation Research Program; to the Committee on Small Business and Entrepreneurship.

Mr. BOND. Mr. President, the United States biotechnology industry is the world leader in innovation. This is due, in large part, to the Federal Government's partnership with the private sector to foster growth and commercialization in the hope that one day we will uncover a cure for unmet medical needs such as cystic fibrosis, heart disease, various cancers, multiple sclerosis, and AIDS.

However, the industry was dealt a major setback last year when the Small Business Administration—SBA—determined that venture-backed biotechnology companies can no longer

participate in the Small Business Innovation Research—SBIR—program. Prior to the SBA's decision, the SBIR program was an example of a highly successful Federal initiative to encourage economic growth and innovation in the biotechnology industry by funding the critical startup and development stages of a company.

Traditionally, to qualify for an SBIR grant a small business applicant had to meet two requirements: one, that the company have less than 500 employees; and two, that the business be 51 percent owned by one or more individuals. Now, according to the SBA, the term ''individuals'' means natural persons only, whereas for the past 20 years the term ''individual'' has included venture-capital companies. As a result, biotech companies backed by venture-capital funding in Missouri and throughout our Nation, who are on the cutting edge of science, can no longer participate in the program.

The biotech industry is like no other in the world because it takes such a long span of time and intense capital expenditures to bring a successful product to market. In fact, according to a study completed by the Tufts Center for the Study of Drug Development, it takes roughly 10-15 years and $800 million for a company to bring just one product to market. As you can imagine, the industry's entrepreneurs are seeking financial assistance wherever they can find it.

For the past 20 years, the SBIR program has been a catalyst for developing our Nation's most successful biotechnology companies. In addition to these important government grants, venture capital funding plays a vital role in the financial support of these same companies. The strength of our biotechnology industry is a direct result of government grants and venture capital working together.

However, some have argued that a biotech firm with a majority venture capital backing is a large business. This is simply a bogus conclusion. Venture capital firms solely invest in biotech start-ups for the possibility of a future innovation and financial return and generally do not seek to take control over the management functions or day-to-day operations of the company. Venture capital firms that seek to invest in small biotech businesses do not, simply by their investment, turn a small business into a large business. These are legitimate, small, start-up businesses. Let's not punish them.

Instead, we must work together to avoid stifling innovation. Let me be clear. Our impact today will foster cures and medicines tomorrow that were once thought to be inconceivable. However, the industry cannot do it alone. We must nurture biotechnology and help the industry grow for the future of our economy and for our well-being.

This bill that I am introducing today will do just that. It will ensure that the biotechnology industry has access to SBIR grants, as it has had for 20 years. It will level the playing field to ensure that SBIR grants are given to small businesses based on fruitful science and nothing else. This is still a young and fragile industry, and we are on the cusp of great scientific advances. However, there will be profound consequences if biotechnology companies continue to be excluded from the SBIR program.

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

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

S. 1263

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 ''Save America's Biotechnology Innovative Research Act of 2005'' or ''SABIR Act''.

SEC. 2. ELIGIBILITY FOR PARTICIPATION IN SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

''(x) ELIGIBILITY FOR PARTICIPATION IN SBIR PROGRAM.—

''(1) IN GENERAL.—To be eligible to receive an award under the SBIR program, a business concern—

''(A) shall have not more than 500 employees; and

''(B) shall be owned in accordance with one of the ownership requirements described in paragraph (2).

''(2) OWNERSHIP REQUIREMENTS.—The ownership requirements referred to in paragraph (1) are the following:

''(A) The business concern is—

''(i) at least 51 percent owned and controlled by individuals or eligible venture capital companies, who are citizens of or permanent resident aliens in the United States; and

''(ii) not more than 49 percent owned and controlled by a single eligible venture capital company (or group of commonly-controlled eligible venture capital companies).

''(B) The business concern is at least 51 percent owned and controlled by another business concern that is itself at least 51 percent owned and controlled by individuals who are citizens of or permanent resident aliens in the United States.

''(C) The business concern is a joint venture in which each entity to the joint venture meets one of the ownership requirements under this paragraph.

''(3) EMPLOYEE DEFINED.—For purposes of paragraph (1)(A), the term 'employee' means an individual employed by the business concern and does not include—

''(A) an individual employed by an eligible venture capital company providing financing to the business concern; or

''(B) an individual employed by any entity in which the eligible venture capital company is invested other than that business concern.

''(4) TREATMENT OF OTHER FORMS OF OWNERSHIP.—

''(A) STOCK OPTION OWNERSHIP.—For purposes of this subsection, in the case of a business concern owned in whole or in part by an employee stock option plan, each stock trustee or plan member shall be deemed to be an owner.

''(B) TRUST OWNERSHIP.—For purposes of this subsection, in the case of a business concern owned in whole or in part by a trust, each trustee or trust beneficiary shall be deemed to be an owner.

''(5) EXCEPTION FOR START-UP CONCERNS.—Notwithstanding paragraphs (1) through (4), any business concern that is a start-up concern shall be eligible to receive funding under the SBIR program.''.

(b) DEFINITIONS.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended by adding at the end the following new paragraphs:

''(9) The term 'eligible venture capital company' means a business concern—

''(A) that—

''(i) is a Venture Capital Operating Company, as that term is defined in regulations promulgated by the Secretary of Labor; or

''(ii) is an entity that—

''(I) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–51 et seq.); or

''(II) is an investment company, as defined in section 3(c)(14) of such Act (15 U.S.C. 80a–3(c)(14)), which is not registered under such Act because it is beneficially owned by less than 100 persons; and

''(B) that is not controlled by any business concern that is not a small business concern within the meaning of section 3.

''(10) The term 'start-up concern' means a business concern that—

''(A) for at least 2 of the 3 preceding fiscal years has had—

''(i) sales of not more than $3,000,000; or

''(ii) no positive cash flow from operations; and

''(B) is not formed to acquire any business concern other than a small business concern that meets the requirement under subparagraph (A).''.

(c) REGULATIONS.—Before the date that is 90 days after the date of the enactment of this Act, the Administrator of the Small Business Administration shall—

(1) in accordance with the exceptions to public rulemaking under section 553(b)(A) and (B) of title 5, United States Code, promulgate regulations to implement the provisions of this Act;

(2) publish in the Federal Register a notification of the changes in eligibility for participation in the Small Business Innovation Research program made by this Act; and

(3) communicate such changes to Federal agencies that award grants under the Small Business Innovation Research program.

(d) EFFECTIVE DATE.—The amendments made by this Act shall apply with respect to any business concern that participates in the Small Business Innovation Research program on or after the date of the enactment of this Act.

By Mr. CORZINE (for himself, Mrs. CLINTON, Mrs. MURRAY, Mr. LAUTENBERG, Mrs. BOXER, Ms. CANTWELL, Mr. KENNEDY, Mr. INOUYE, and Mr. KERRY):

S. 1264. A bill to provide for the provision by hospitals of emergency contraceptives to women, and post-exposure prophylaxis for sexually transmitted disease to individuals, who are survivors of sexual assault; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today to introduce the Compassionate Assistance for Rape Emergencies Act. In the United States, more than 300,000 women are raped each year and an estimated 25,000 to 32,000 become pregnant as a result. That is why I am reintroducing the Compassionate Assistance

in Rape Emergencies Act, or CARE Act.

This bill will ensure that women who are survivors of sexual assault have access to the medical care they need, including emergency contraception. Emergency contraception reduces a woman's risk of becoming pregnant by up to 89 percent when taken within 72 hours of the assault. I want to be clear: emergency contraception does not end a pregnancy. Instead, emergency contraception works before a pregnancy can occur.

There is widespread consensus in the medical community that emergency contraception is safe and effective. Yet, New Jersey is one of only six States that legally require all medical providers to offer this care to rape survivors. Before this law, one-third of New Jersey's hospitals did not provide this vital medication. New Jersey's law should be the national standard. The bill would require that all hospitals that receive Federal funding offer information and access to emergency contraception for victims of rape.

In January of this year I, along with 21 Senators, wrote a letter to the Department of Justice asking that they include information about emergency contraception in their national protocol for sexual assault hospital examinations. But they did not. In all 141 pages, the protocol fails to provide sexual assault victims with access to this needed information and treatment. The protocol instead leaves the door open for health care professionals to decide whether or not to discuss certain treatment options. Today, I want to close that door.

In order to provide comprehensive medical care, hospitals must also provide quick access to preventive medication that helps protect victims of sexual assault from potentially fatal sexually transmitted diseases, such as HIV and hepatitis B. We have an obligation to protect sexual assault victims from these life threatening infections.

We must not sit idly by while so many sexual assault survivors are deprived the medical care they need and deserve. Once these survivors seek treatment we ought to make sure that they get the treatment they need. Ideology should never stand between patients and the care they deserve.

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. 1264

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 ''Compassionate Assistance for Rape Emergencies Act''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) It is estimated that 25,000 to 32,000 women become pregnant each year as a result of rape or incest. An estimated 22,000 of these pregnancies could be prevented if rape survivors had timely access to emergency contraception.

(2) A 1996 study of rape-related pregnancies (published in the American Journal of Obstetrics and Gynecology) found that 50 percent of the pregnancies described in paragraph (1) ended in abortion.

(3) Surveys have shown that many hospitals do not routinely provide emergency contraception to women seeking treatment after being sexually assaulted.

(4) The risk of pregnancy after sexual assault has been estimated to be 4.7 percent in survivors who were not protected by some form of contraception at the time of the attack.

(5) The Food and Drug Administration has declared emergency contraception to be safe and effective in preventing unintended pregnancy, reducing the risk by as much as 89 percent if taken within days of unprotected intercourse and up to 95 percent if taken in the first 24 hours.

(6) Medical research strongly indicates that the sooner emergency contraception is administered, the greater the likelihood of preventing unintended pregnancy.

(7) In light of the safety and effectiveness of emergency contraceptive pills, both the American Medical Association and the American College of Obstetricians and Gynecologists have endorsed more widespread availability of such pills.

(8) The American College of Emergency Physicians and the American College of Obstetricians and Gynecologists agree that offering emergency contraception to female patients after a sexual assault should be considered the standard of care.

(9) Approximately 30 percent of American women of reproductive age are unaware of the availability of emergency contraception.

(10) New data from a survey of women having abortions estimates that 51,000 abortions were prevented by use of emergency contraception in 2000 and that increased use of emergency contraception accounted for 43 percent of the decrease in total abortions between 1994 and 2000.

(11) It is essential that all hospitals that provide emergency medical treatment provide emergency contraception as a treatment option to any woman who has been sexually assaulted, so that she may prevent an unintended pregnancy.

(12) Victims of sexual assault are at increased risk of contracting sexually transmitted diseases.

(13) Some sexually-transmitted infections cannot be reliably cured if treatment is delayed, and may result in high morbidity and mortality. HIV has killed over 520,000 Americans, and the Centers for Disease Control and Prevention currently estimates that over 1,000,000 Americans are infected with the virus. Even modern drug treatment has failed to cure infected individuals. Nearly 80,000 Americans are infected with hepatitis B each year, with some individuals unable to fully recover. An estimated 1,250,000 Americans remain chronically infected with the hepatitis B virus and at present, one in five of these may expect to die of liver failure.

(14) It is possible to prevent some sexually transmitted diseases by treating an exposed individual promptly. The use of post-exposure prophylaxis using antiretroviral drugs has been demonstrated to effectively prevent the establishment of HIV infection. Hepatitis B infection may also be eliminated if an exposed individual receives prompt treatment.

(15) The Centers for Disease Control and Prevention has recommended risk evaluation and appropriate application of post-exposure treatment for victims of sexual assault. For such individuals, immediate treatment is the only means to prevent a life threatening infection.

(16) It is essential that all hospitals that provide emergency medical treatment provide assessment and treatment of sexually-transmitted infections to minimize the harm to victims of sexual assault.

SEC. 3. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY HOSPITALS OF EMERGENCY CONTRACEPTIVES WITHOUT CHARGE.

(a) IN GENERAL.—Federal funds may not be provided to a hospital under any health-related program, unless the hospital meets the conditions specified in subsection (b) in the case of—

(1) any woman who presents at the hospital and states that she is a victim of sexual assault, 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 believe is a victim of sexual assault.

(b) ASSISTANCE FOR VICTIMS.—The conditions specified in this subsection regarding a hospital and a woman described in subsection (a) are as follows:

(1) The hospital promptly provides the woman with medically and factually accurate and unbiased written and oral information about emergency contraception, including information explaining that—

(A) emergency contraception has been approved by the Food and Drug Administration as a safe and effective way to prevent pregnancy after unprotected intercourse or contraceptive failure if taken in a timely manner, and is more effective the sooner it is taken; and

(B) emergency contraception does not cause an abortion and cannot interrupt an established pregnancy.

(2) The hospital promptly offers emergency contraception to the woman, and promptly provides such contraception to her at the hospital on her request.

(3) The information provided pursuant to paragraph (1) is in clear and concise language, 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 inability of the woman to pay for the services.

SEC. 4. PREVENTION OF TRANSMISSIBLE DISEASE.

(a) IN GENERAL.—No hospital shall receive Federal funds unless such hospital provides risk assessment, counseling, and treatment as required under this section to a survivor of sexual assault described in subsection (b).

(b) SURVIVORS OF SEXUAL ASSAULT.—An individual is a survivor of a sexual assault as described in this subsection if the individual—

(1) presents at the hospital and declares that the individual is a victim of sexual assault, or the individual is accompanied to the hospital by another individual who declares that the first individual is a victim of a sexual assault; or

(2) presents at the hospital and hospital personnel have reason to believe the individual is a victim of sexual assault.

(c) REQUIREMENT FOR RISK ASSESSMENT, COUNSELING, AND TREATMENT.—The following shall apply with respect to a hospital described in subsection (a):

(1) RISK ASSESSMENT.—A hospital shall promptly provide a survivor of a sexual assault with an assessment of the individual's risk for contracting sexually transmitted infections as described in paragraph (2)(A), which shall be conducted by a licensed medical professional and be based upon—

(A) available information regarding the assault as well as the subsequent findings from

medical examination and any tests that may be conducted; and

(B) established standards of risk assessment which shall include consideration of any recommendations established by the Centers for Disease Control and Prevention, and may also incorporate findings of peer-reviewed clinical studies and appropriate research utilizing in vitro and non-human primate models of infection.

(2) COUNSELING.—A hospital shall provide a survivor of a sexual assault with advice, provided by a licensed medical professional, concerning—

(A) significantly prevalent sexually transmissible infections for which effective post-exposure prophylaxis exists, and for which the deferral of treatment would either significantly reduce treatment efficacy or would pose substantial risk to the individual's health; and

(B) the requirement that prophylactic treatment for infections as described in subparagraph (A) shall be provided to the individual upon request, regardless of the ability of the individual to pay for such treatment.

(3) TREATMENT.—A hospital shall provide a survivor of a sexual assault, upon request, with prophylactic treatment for infections described in paragraph (2)(A).

(4) ABILITY TO PAY.—The services described in paragraphs (1) through (3) shall not be denied because of the inability of the individual involved to pay for the services.

(5) LANGUAGE.—Any information provided pursuant to this subsection shall be clear and concise, readily comprehensible, and meet such conditions regarding the provision of the information in languages other than English as the Secretary may establish.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a hospital provide prophylactic treatment for a victim of sexual assault when risk evaluation according to criteria adopted by the Centers for Disease Control and Prevention clearly recommend against the application of post-exposure prophylaxis;

(2) prohibit a hospital from seeking reimbursement for the cost of services provided under this section to the extent that health insurance may reimburse for such services; and

(3) establish a requirement that any victim of sexual assault submit to diagnostic testing for the presence of any infectious disease.

(e) LIMITATION.—Federal funds may not be provided to a hospital under any health-related program unless the hospital complies with the requirements of this section.

SEC. 5. DEFINITIONS.

In this Act:

(1) EMERGENCY CONTRACEPTION.—The term ''emergency contraception'' means a drug, drug regimen, or device that is—

(A) approved by the Food and Drug Administration to prevent pregnancy; and

(B) is used postcoitally.

(2) HOSPITAL.—The term ''hospital'' has the meaning given such term in title XVIII of the Social Security Act, including the meaning applicable in such title for purposes of making payments for emergency services to hospitals that do not have agreements in effect under such title. Such term includes a health care facility that is located within, or contracted to, a correctional institution or a post-secondary educational institution.

(3) LICENSED MEDICAL PROFESSIONAL.—The term ''licensed medical professional'' means a doctor of medicine, doctor of osteopathy, registered nurse, physician assistant, or any other healthcare professional determined appropriate by the Secretary.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(5) SEXUAL ASSAULT.—

(A) IN GENERAL.—The term ''sexual assault'' means a sexual act (as defined in subparagraphs (A) through (C) of section 2246(2) of title 18, United States Code) where the victim involved does not consent or lacks the capacity to consent.

(B) APPLICATION OF PROVISIONS.—The definition under subparagraph (A) shall—

(i) in the case of section 2, apply to males and females, as appropriate;

(ii) in the case of section 3, apply only to females; and

(iii) in the case of section 4, apply to all individuals.

SEC. 6. EFFECTIVE DATE; AGENCY CRITERIA.

This Act shall take effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act. Not later than 30 days prior to the expiration of such period, the Secretary of Health and Human Services shall publish in the Federal Register criteria for carrying out this Act.

By Mr. VOINOVICH (for himself, Mr. CARPER, Mrs. CLINTON, Mr. ISAKSON, Mrs. HUTCHISON, Mrs. FEINSTEIN, Mr. INHOFE, and Mr. JEFFORDS):

S. 1265. A bill to make grants and loans available to States and other organizations to strengthen the economy, public health, and environment of the United States by reducing emissions from diesel engines; to the Committee on Environment and Public Works.

Mr. VOINOVICH. Mr. President, I speak as Chairman of the Environment and Public Works Subcommittee on Clean Air, Climate Change, and Nuclear Safety to introduce a landmark, bipartisan piece of legislation—the Diesel Emissions Reduction Act of 2005.

This bill is cosponsored by Environment and Public Works Committee JIM INHOFE and ranking member JIM JEFFORDS and Senators TOM CARPER, JOHNNY ISAKSON, HILLARY CLINTON, KAY BAILEY HUTCHISON, and DIANNE FEINSTEIN. Focused on improving air quality and protecting public health, it would establish voluntary national and state-level grant and loan programs to promote the reduction of diesel emissions. Additionally, the bill would help areas come into attainment for the new air quality standards.

Developed with environmental, industry, and public officials, the legislation complements Environmental Protection Agency, EPA, regulations now being implemented that address diesel fuel and new diesel engines. I am pleased to be joined by a strong and diverse group of organizations and officials: Environmental Defense; Clean Air Task Force; Union of Concerned Scientists; Ohio Environmental Council; Caterpillar Inc.; Cummins Inc.; Diesel Technology Forum; Emissions Control Technology Association; Associated General Contractors of America; State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials; Ohio Environmental Protection Agency; Regional Air Pollution Control Agency in Dayton, Ohio; Mid-Ohio Regional Planning Commission.

The cosponsors of this legislation and these groups do not agree on many issues—which is why this bill is so special.

The process for developing this legislation began last year when several of these organizations came in to meet with me. They informed me of the harmful public health impact of diesel emissions. Onroad and nonroad diesel vehicles and engines account for roughly one-half of the nitrogen oxide and particulate matter mobile source emissions nationwide.

I was pleased to hear that the administration had taken strong action with new diesel fuel and engine regulations, which were developed in a collaborative effort to substantially reduce diesel emissions. However, I was told that the full health benefit would not be realized until 2030 because these regulations address new engines and the estimated 11 million existing engines have a long life.

I was pleased that they had a constructive suggestion on how we could address this problem. They informed me of successful grant and loan programs at the State and local level throughout the Nation that were working on a voluntary basis to retrofit diesel engines.

I was also cognizant that the new ozone and particulate matter air quality standards were going into effect and that a voluntary program was needed to help the nation's 495 and Ohio's 38 nonattainment counties—especially those that are in moderate nonattainment like Northeast Ohio.

Additionally, I have visited with University of Cincinnati Medical Center doctors—as recently as this month—to discuss their Cincinnati Childhood Allergy and Air Pollution Study. Some of the early results indicate disturbing impacts on the development of children living near highways.

It became clear to me that a national program was needed. We then formed a strong, diverse coalition comprised of environmental, industry, and public officials. The culmination of this work is being revealed today in the Diesel Emissions Reduction Act of 2005.

This legislation would establish voluntary national and State-level grant and loan programs to promote the reduction of diesel emissions. It would authorize $1 billion over 5 years—$200 million annually. Some will claim that this is too much money and others will claim it is not enough—which is probably why it is just right.

We should first recognize that the need far outpaces what is contained in the legislation. This funding is also fiscally responsible as diesel retrofits have proven to be one of the most cost-effective emissions reduction strategies. Furthermore, as a former Governor, I know firsthand that the new air quality standards are an unfunded mandate on our states and localities—and they need the Federal Government's help.

This legislation would help bring counties into attainment by encouraging the retrofitting or replacement of diesel engines, substantially reducing diesel emissions and the formation of ozone and particulate matter.

The bill is efficient with the Federal Government's dollars in several ways. First, 20 percent of the funding would be distributed to States that establish voluntary diesel retrofit programs. 10 percent of the bill's overall funding would be set aside as an incentive for States to match the Federal dollars being provided. The remaining 70 percent of the program would be administered by the EPA.

Second, the program would focus on nonattainment areas where help is needed the most. Third, it would require at least 50 percent of the Federal program to be used on public fleets since we are talking about public dollars. Fourth, it would place a high priority on the projects that are the most cost effective and affect the most people.

Lastly, the bill would include provisions to help develop new technologies, encourage more action through non-financial incentives, and require EPA to outreach to stakeholders and report on the success of the program.

EPA estimates that this billion dollar program would leverage an additional $500 million leading to a net benefit of almost $20 billion with a reduction of about 70,000 tons of particulate matter. This is a 13 to 1 benefit-cost ratio.

The Diesel Emissions Reduction Act of 2005 enjoys broad bipartisan support, and it is needed desperately. I plan to work with the bill's cosponsors and the coalition to use every avenue to get it signed into law as soon as possible.

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. 1265

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 ''Diesel Emissions Reduction Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) CERTIFIED ENGINE CONFIGURATION.—The term ''certified engine configuration'' means a new, rebuilt, or remanufactured engine configuration—

(A) that has been certified or verified by—

(i) the Administrator; or

(ii) the California Air Resources Board;

(B) that meets or is rebuilt or remanufactured to a more stringent set of engine emission standards, as determined by the Administrator; and

(C) in the case of a certified engine configuration involving the replacement of an existing engine or vehicle, an engine configuration that replaced an engine that was—

(i) removed from the vehicle; and

(ii) returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or for scrappage.

(3) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) a regional, State, local, or tribal agency with jurisdiction over transportation or air quality; and

(B) a nonprofit organization or institution that—

(i) represents organizations that own or operate diesel fleets; or

(ii) has, as its principal purpose, the promotion of transportation or air quality.

(4) EMERGING TECHNOLOGY.—The term ''emerging technology'' means a technology that is not certified or verified by the Administrator or the California Air Resources Board but for which an approvable application and test plan has been submitted for verification to the Administrator or the California Air Resources Board.

(5) HEAVY-DUTY TRUCK.—The term ''heavy-duty truck'' has the meaning given the term ''heavy duty vehicle'' in section 202 of the Clean Air Act (42 U.S.C. 7521).

(6) MEDIUM-DUTY TRUCK.—The term ''medium-duty truck'' has such meaning as shall be determined by the Administrator, by regulation.

(7) VERIFIED TECHNOLOGY.—The term ''verified technology'' means a pollution control technology, including a retrofit technology, that has been verified by—

(A) the Administrator; or

(B) the California Air Resources Board.

SEC. 3. NATIONAL GRANT AND LOAN PROGRAMS.

(a) IN GENERAL.—The Administrator shall use 70 percent of the funds made available to carry out this Act for each fiscal year to provide grants and low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities to achieve significant reductions in diesel emissions in terms of—

(1) tons of pollution produced; and

(2) diesel emissions exposure, particularly from fleets operating in areas designated by the Administrator as poor air quality areas.

(b) DISTRIBUTION.—

(1) IN GENERAL.—The Administrator shall distribute funds made available for a fiscal year under this Act in accordance with this section.

(2) FLEETS.—The Administrator shall provide not less than 50 percent of funds available for a fiscal year under this section to eligible entities for the benefit of public fleets.

(3) ENGINE CONFIGURATIONS AND TECHNOLOGIES.—

(A) CERTIFIED ENGINE CONFIGURATIONS AND VERIFIED TECHNOLOGIES.—The Administrator shall provide not less than 90 percent of funds available for a fiscal year under this section to eligible entities for projects using—

(i) a certified engine configuration; or

(ii) a verified technology.

(B) EMERGING TECHNOLOGIES.—

(i) IN GENERAL.—The Administrator shall provide not more than 10 percent of funds available for a fiscal year under this section to eligible entities for the development and commercialization of emerging technologies.

(ii) APPLICATION AND TEST PLAN.—To receive funds under clause (i), a manufacturer, in consultation with an eligible entity, shall submit for verification to the Administrator or the California Air Resources Board a test plan for the emerging technology, together with the application under subsection (c).

(c) APPLICATIONS.—

(1) IN GENERAL.—To receive a grant or loan under this section, an eligible entity shall submit to the Administrator an application at a time, in a manner, and including such information as the Administrator may require.

(2) INCLUSIONS.—An application under this subsection shall include—

(A) a description of the air quality of the area served by the eligible entity;

(B) the quantity of air pollution produced by the diesel fleet in the area served by the eligible entity;

(C) a description of the project proposed by the eligible entity, including—

(i) any certified engine configuration, verified technology, or emerging technology to be used by the eligible entity; and

(ii) the means by which the project will achieve a significant reduction in diesel emissions;

(D) an evaluation (using methodology approved by the Administrator or the National Academy of Sciences) of the quantifiable and unquantifiable benefits of the emissions reductions of the proposed project;

(E) an estimate of the cost of the proposed project;

(F) a description of the age and expected lifetime control of the equipment used by the eligible entity;

(G) a description of the diesel fuel available to the eligible entity, including the sulfur content of the fuel; and

(H) provisions for the monitoring and verification of the project.

(3) PRIORITY.—In providing a grant or loan under this section, the Administrator shall give priority to proposed projects that, as determined by the Administrator—

(A) maximize public health benefits;

(B) are the most cost-effective;

(C) serve areas—

(i) with the highest population density;

(ii) that are poor air quality areas, including areas identified by the Administrator as—

(I) in nonattainment or maintenance of national ambient air quality standards for a criteria pollutant;

(II) Federal Class I areas; or

(III) areas with toxic air pollutant concerns;

(iii) that receive a disproportionate quantity of air pollution from a diesel fleet, including ports, rail yards, and distribution centers; or

(iv) that use a community-based multistakeholder collaborative process to reduce toxic emissions;

(D) include a certified engine configuration, verified technology, or emerging technology that has a long expected useful life;

(E) will maximize the useful life of any retrofit technology used by the eligible entity; and

(F) use diesel fuel with a sulfur content of less than or equal to 15 parts per million, as the Administrator determines to be appropriate.

(d) USE OF FUNDS.—

(1) IN GENERAL.—An eligible entity may use a grant or loan provided under this section to fund the costs of—

(A) a retrofit technology (including any incremental costs of a repowered or new diesel engine) that significantly reduces emissions through development and implementation of a certified engine configuration, verified technology, or emerging technology for—

(i) a bus;

(ii) a medium-duty truck or a heavy-duty truck;

(iii) a marine engine;

(iv) a locomotive; or

(v) a nonroad engine or vehicle used in—

(I) construction;

(II) handling of cargo (including at a port or airport);

(III) agriculture;

(IV) mining; or

(V) energy production; or

(B) an idle-reduction program involving a vehicle or equipment described in subparagraph (A).

(2) REGULATORY PROGRAMS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), no grant or loan provided under this section shall be used to fund the costs of emissions reductions that are mandated under Federal, State or local law.

(B) MANDATED.—For purposes of subparagraph (A), voluntary or elective emission reduction measures shall not be considered ''mandated'', regardless of whether the reductions are included in the State implementation plan of a State.

SEC. 4. STATE GRANT AND LOAN PROGRAMS.

(a) IN GENERAL.—Subject to the availability of adequate appropriations, the Administrator shall use 30 percent of the funds made available for a fiscal year under this Act to support grant and loan programs administered by States that are designed to achieve significant reductions in diesel emissions.

(b) APPLICATIONS.—The Administrator shall—

(1) provide to States guidance for use in applying for grant or loan funds under this section, including information regarding—

(A) the process and forms for applications;

(B) permissible uses of funds received; and

(C) the cost-effectiveness of various emission reduction technologies eligible to be carried out using funds provided under this section; and

(2) establish, for applications described in paragraph (1)—

(A) an annual deadline for submission of the applications;

(B) a process by which the Administrator shall approve or disapprove each application; and

(C) a streamlined process by which a State may renew an application described in paragraph (1) for subsequent fiscal years.

(c) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—For each fiscal year, the Administrator shall allocate among States for which applications are approved by the Administrator under subsection (b)(2)(B) funds made available to carry out this section for the fiscal year.

(2) ALLOCATION.—Using not more than 20 percent of the funds made available to carry out this section for a fiscal year, the Administrator shall provide to each State described in paragraph (1) for the fiscal year an allocation of funds that is equal to—

(A) if each of the 50 States qualifies for an allocation, an amount equal to 2 percent of the funds made available to carry out this section; or

(B) if fewer than 50 States qualifies for an allocation, an amount equal to the amount described in subparagraph (A), plus an additional amount equal to the product obtained by multiplying—

(i) the proportion that—

(I) the population of the State; bears to

(II) the population of all States described in paragraph (1); by

(ii) the amount of funds remaining after each State described in paragraph (1) receives the 2-percent allocation under this paragraph.

(3) STATE MATCHING INCENTIVE.—

(A) IN GENERAL.—If a State agrees to match the allocation provided to the State under paragraph (2) for a fiscal year, the Administrator shall provide to the State for the fiscal year an additional amount equal to 50 percent of the allocation of the State under paragraph (2).

(B) REQUIREMENTS.—A State—

(i) may not use funds received under this Act to pay a matching share required under this subsection; and

(ii) shall not be required to provide a matching share for any additional amount received under subparagraph (A).

(4) UNCLAIMED FUNDS.—Any funds that are not claimed by a State for a fiscal year under this subsection shall be used to carry out section 3.

(d) ADMINISTRATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3) and, to the extent practicable, the priority areas listed in section 3(c)(3), a State shall use any funds provided under this section to develop and implement such grant and low-cost revolving loan programs in the State as are appropriate to meet State needs and goals relating to the reduction of diesel emissions.

(2) APPORTIONMENT OF FUNDS.—The Governor of a State that receives funding under this section may determine the portion of funds to be provided as grants or loans.

(3) USE OF FUNDS.—A grant or loan provided under this section may be used for a project relating to—

(A) a certified engine configuration; or

(B) a verified technology.

SEC. 5. EVALUATION AND REPORT.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Administrator shall submit to Congress a report evaluating the implementation of the programs under this Act.

(b) INCLUSIONS.—The report shall include a description of—

(1) the total number of grant applications received;

(2) each grant or loan made under this Act, including the amount of the grant or loan;

(3) each project for which a grant or loan is provided under this Act, including the criteria used to select the grant or loan recipients;

(4) the estimated air quality benefits, cost-effectiveness, and cost-benefits of the grant and loan programs under this Act;

(5) the problems encountered by projects for which a grant or loan is provided under this Act; and

(6) any other information the Administrator considers to be appropriate.

SEC. 6. OUTREACH AND INCENTIVES.

(a) DEFINITION OF ELIGIBLE TECHNOLOGY.—In this section, the term ''eligible technology'' means—

(1) a verified technology; or

(2) an emerging technology.

(b) TECHNOLOGY TRANSFER PROGRAM.—

(1) IN GENERAL.—The Administrator shall establish a program under which the Administrator—

(A) informs stakeholders of the benefits of eligible technologies; and

(B) develops nonfinancial incentives to promote the use of eligible technologies.

(2) ELIGIBLE STAKEHOLDERS.—Eligible stakeholders under this section include—

(A) equipment owners and operators;

(B) emission control technology manufacturers;

(C) engine and equipment manufacturers;

(D) State and local officials responsible for air quality management;

(E) community organizations; and

(F) public health and environmental organizations.

(c) STATE IMPLEMENTATION PLANS.—The Administrator shall develop appropriate guidance to provide credit to a State for emission reductions in the State created by the use of eligible technologies through a State implementation plan under section 110 of the Clean Air Act (42 U.S.C. 7410).

(d) INTERNATIONAL MARKETS.—The Administrator, in coordination with the Department of Commerce and industry stakeholders, shall inform foreign countries with air quality problems of the potential of technology developed or used in the United States to provide emission reductions in those countries.

SEC. 7. EFFECT OF ACT.

Nothing in this Act affects any authority under the Clean Air Act (42 U.S.C. 7401 et seq.) in existence on the day before the date of enactment of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $200,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

By Mr. BINGAMAN:

S. 1267. A bill to amend title IV of the Higher Education Act of 1965 to reauthorize the Gaining Early Awareness and Readiness for Undergraduate Programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, our country is facing a crisis. Too many of our young people leave high school without the skills necessary to meet the demands of a global economy. According to a recent U.S. Chamber of Commerce survey, 75 percent of employers report severe difficulties when trying to hire qualified workers, with 40 percent of job applicants having poor skills. As many as 3.3 million jobs may be sent overseas in the next 15 years, causing American workers to lose $136 billion in wages. The strength of our economy, and the future of our nation, largely rests on our ability to improve educational opportunities for all of our citizens.

An educated, skilled, and flexible workforce is essential to building a strong and dynamic economy, and, if we are going to maintain our country's ability to compete in a global economy, we must help prepare young people to meet the demands of the 21st century workforce. I introduce legislation that will ensure more students graduate high school ready for college and the workforce.

Only 68 percent of all students in the U.S. graduate high school on time with a regular diploma. And, the numbers are worse if the student is Hispanic, African American, Native American, has a disability, or is male. Sadly, a recent report indicates that students are dropping out at a younger age, resulting in an even less educated workforce.

For students who graduate with a high school diploma, too few go on directly to college. Astonishingly, only 38 percent of high school freshmen will earn a high school diploma and make the immediate transition to college directly after graduation. In New Mexico, the statistics are pretty staggering. For every 50 ninth graders in New Mexico, only 30 will graduate high school; 18 will enter college; 11 are still enrolled in their sophomore year; and 5.5 graduate from college within 6 years. We must do better.

We also know, unfortunately, that as many as 40 percent of this country's high school graduates are not prepared to meet the demands of college or a

competitive workforce. A survey of college professors reveals that half of all public school graduates are not adequately prepared to do college-level math or writing.

There is some good news, however; we know what works. Research conducted by the Department of Education shows that the single best predictor of college success is the quality and level of a student's high school classes. Students who take a solid college prep curriculum are less likely to need remedial classes, and are more likely to earn a college degree. In fact, evidence shows that the intensity and quality of high school curriculum is the greatest measure of completion of a bachelor's degree. Importantly, studies also show that not only do college-bound students benefit from rigorous courses, but that all students benefit from more rigorous coursework. Accordingly, it is critical that all of our young people have access to rigorous coursework in secondary school in order to meet the demands of postsecondary education and a competitive workforce.

Therefore, I introduce legislation that builds on this research and works toward a goal of ensuring that all secondary school students are enrolled in classes that prepare them to excel in college and in the workplace.

The GEAR UP program, Gaining Early Awareness and Readiness for Undergraduate Programs, was first authorized in 1998 and was designed to promote student achievement and access to postsecondary education among low-income students. Since that time, GEAR UP grants have served over a million students per year. In my home State of New Mexico, there are six GEAR UP programs that serve thousands of students in many different ways, including by instituting reading and math programs, taking students to colleges so they can begin to imagine themselves on a college campus, creating science fairs and technology training seminars, providing career and financial counseling, and many other vital services. And, the individuals who work with GEAR UP programs are some of the most dedicated professionals I have met.

I believe we can build on the successes of GEAR UP to ensure more students leave high school prepared for the academic rigor of college and a competitive workforce. My legislation, called Gearing Up for Academic Success, will support and strengthen GEAR UP so that it promotes lasting and systemic change in the schools served by the GEAR UP grant.

The legislation places a particular focus on encouraging more students to take college preparation courses, especially those who are at risk for dropping out of school. But, it also builds capacity within the school so that activities funded with a GEAR UP grant benefit not only the students who receive the services, but also future cohorts of students who enter GEAR UP schools after the initial grants have ended.

My legislation does not change the fundamental structure of GEAR UP; it maintains States and partnerships as eligible entities. The legislation, however, changes the focus and the types of activities the eligible entities must engage in. Eligible entities will now be required to provide activities that ensure more students participate in college preparation coursework. Further, my legislation requires the activities to be designed so as to benefit both current students as well as future cohorts of students.

As in current law, partnerships are comprised of school districts, institutions of higher education, and community organizations. The legislation also retains the focus on cohorts of students that exists in current law by requiring grantees to serve one grade level of students, beginning not later than the 7th grade, through the 12th grade. Unlike current law, however, partnerships will now be required to provide activities designed to ensure the secondary school completion and college enrollment of this cohort of students. The legislation will also require the partnership to focus on developing a more rigorous curriculum and on professional development opportunities for teachers of college prep courses. Consequently, future cohorts of students would benefit from the more rigorous curriculum and the professional development available to the teachers.

Partnerships may also engage in a wide variety of other activities permissible under current law, including providing mentoring and advising, creating summer programs at institutions of higher education, providing skills assessment, personal and family counseling, financial aid counseling, and activities designed to foster parent involvement in issues surrounding completion of high school and the attainment of a college education.

The State can play a more effective role in ensuring students graduate high school prepared for college, and accordingly, my legislation requires State grantees to focus on two types of activities. First, the State would be required to provide policy leadership to promote college readiness of students in the State, particularly those who are at risk of dropping out of school and those who are economically disadvantaged. And, second, the State will be responsible for promoting coordination and information sharing among all GEAR UP grantees in the state, providing technical assistance and training, disseminating information about best practices, and providing opportunities for eligible partnerships to coordinate their efforts.

This program is so worthwhile, and leadership at the State level is absolutely critical, and accordingly, propose changing the formula to make funds available to every State. When appropriations for GEAR UP exceed $400,000,000 per year, one third of the funds will be made available to each State by formula. The remainder of the allocation will go to eligible partnerships on a competitive basis.

We all can agree that it is in our national interest to ensure that all of our students leave high school prepared to meet the demands of the 21st century workforce. This legislation provides an opportunity to systemically change the way our secondary schools prepare all students for college and a competitive workforce. I ask unanimous consent 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. 1267

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 ''Gearing Up for Academic Success Act''.

SEC. 2. GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS

Chapter 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–21 et seq.) is amended to read as follows:

''CHAPTER 2—GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS

''SEC. 404A. DEFINITION OF ELIGIBLE ENTITY.

''In this chapter, the term 'eligible entity' means—

''(1) a State; or

''(2) a partnership consisting of—

''(A) 1 or more local educational agencies acting on behalf of—

''(i) 1 or more elementary schools, middle schools, or secondary schools; and

''(ii) the secondary schools that students from the schools described in clause (i) would normally attend;

''(B) 1 or more degree granting institutions of higher education; and

''(C) at least 2 community organizations or entities, such as businesses, professional associations, community-based organizations, philanthropic organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4, or other public or private agencies or organizations.

''SEC. 404B. EARLY INTERVENTION AND COLLEGE AWARENESS PROGRAM AUTHORIZED.

''The Secretary is authorized to award grants in accordance with section 404C—

''(1) to eligible entities described in section 404A(1) to enable the eligible entities to carry out the authorized activities described in section 404D(b); and

''(2) to eligible entities described in section 404A(2) to enable the eligible entities to carry out the authorized activities described in section 404D(a).

''SEC. 404C. GRANTS TO ELIGIBLE ENTITIES.

''(a) GENERAL RESERVATIONS.—From the amount appropriated under section 404H for a fiscal year the Secretary shall reserve—

''(1) an amount sufficient to continue multiyear grant and scholarship awards made under this chapter prior to the date of enactment of the Gearing Up for Academic Success Act, in accordance with the terms and conditions of such awards; and

''(2) the amount described in section 404G to carry out section 404G.

''(b) COMPETITIVE GRANT AWARDS.—

''(1) IN GENERAL.—If the amount appropriated under section 404H for a fiscal year is less than $400,000,000, then the Secretary shall use the amount that remains after reserving funds under subsection (a) to award

grants, on a competitive basis and in accordance with paragraph (2), to eligible entities described in paragraphs (1) and (2) of section 404A to enable the eligible entities to carry out the authorized activities described in section 404D.

''(2) DISTRIBUTION OF COMPETITIVE GRANT AWARDS.—From the amount made available under paragraph (1) that remains after reserving funds under subsection (a) for a fiscal year, the Secretary shall—

''(A) make available—

''(i) not less than 33 percent of the remainder to eligible entities described in section 404A(1); and

''(ii) not less than 33 percent of the remainder to eligible entities described in section 404A(2); and

''(B) award the remainder not made available under subparagraph (A) to eligible entities described in paragraph (1) or (2) of section 404A.

''(3) SPECIAL RULE.—The Secretary shall annually reevaluate the distribution of funds described in paragraph (2)(B) based on the number, quality, and promise of the applications and adjust the distribution accordingly.

''(c) FORMULA AND COMPETITIVE GRANT AWARDS.—

''(1) IN GENERAL.—If the amount appropriated under section 404H for a fiscal year is equal to or greater than $400,000,000, then the Secretary shall use the amount that remains after reserving funds under subsection (a) as follows:

''(A) 33 percent of the remainder shall be used to award grants, from allotments under paragraph (2), to eligible entities described in section 404A(1) to enable the eligible entities to carry out the authorized activities described in section 404D.

''(B) 67 percent of the remainder shall be used to award grants, on a competitive basis, to eligible entities described in section 404A(2) to enable the eligible entities to carry out the authorized activities described in section 404D.

''(2) FORMULA.—

''(A) RESERVATIONS.—If the amount appropriated under section 404H is greater than or equal to $400,000,000, then the Secretary shall reserve, in addition to amounts reserved under subsection (a)—

''(i) ½ of 1 percent of the amount to award grants to the outlying areas according to their respective needs for assistance under this chapter to enable the outlying areas to carry out activities authorized under this chapter; and

''(ii) 1 percent of the amount to award a grant to the Bureau of Indian Affairs to enable the Bureau of Indian Affairs to carry out activities authorized under this chapter.

''(B) FORMULA.—If the amount appropriated under section 404H for a fiscal year is equal to or greater than $400,000,000, then the Secretary shall allocate the amount that remains after reserving funds under subsection (a) and subparagraph (A) among eligible entities having plans approved under section 404E as follows:

''(i) 50 percent of the remainder shall be allocated on the basis of the number of individuals in the State; and

''(ii) 50 percent of the remainder shall be allocated on the basis of the number of children in the State, aged 5 through 17, who are from families with incomes below the poverty line.

''(C) CENSUS DATA.—In allocating funds under subparagraph (A) the Secretary shall use the most recent data available from the Bureau of the Census.

''(D) DEFINITIONS.—In this paragraph;

''(i) OUTLYING AREA.—The term ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

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

''(iii) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''SEC. 404D. AUTHORIZED ACTIVITIES.

''(a) USES OF FUNDS FOR PARTNERSHIPS.—

''(1) COHORT APPROACH.—

''(A) IN GENERAL.—The Secretary shall require that eligible entities described in section 404A(2)—

''(i) provide services under this chapter to at least 1 grade level of students, beginning not later than 7th grade, in a participating school that has a 7th grade and in which at least 50 percent of the students enrolled are eligible for a free or reduced-price lunch under the Richard B. Russell National School Lunch Act (or, if an eligible entity determines that it would promote the effectiveness of a program, an entire grade level of students, beginning not later than the 7th grade, who reside in public housing as defined in section 3(b)(1) of the United States Housing Act of 1937); and

''(ii) ensure that the services are provided through the 12th grade to students in the participating grade level.

''(B) COORDINATION REQUIREMENT.—In carrying out subparagraph (A), the Secretary shall, where applicable, ensure that the cohort approach is done in coordination and collaboration with existing early intervention programs and does not duplicate the services already provided to a school or community.

''(2) MANDATORY ACTIVITIES.—In order to receive a grant under this chapter, an eligible entity described in section 404A(2) shall demonstrate to the satisfaction of the Secretary, in the plan submitted under section 404E, that the eligible entity will provide activities designed to ensure the secondary school completion and college enrollment of children at risk of dropping out of school, with a focus on providing access to rigorous core courses that reflect challenging academic standards. Such activities shall be designed so as to ensure systemic change in the school, so that future cohorts of children will benefit from the changes as well. Such activities shall include—

''(A) enrollment of participating students in a standard college preparation curriculum or, in the case of younger students, in a curriculum that logically articulates with a college preparation curriculum;

''(B) professional development opportunities for instructors of college preparation classes; and

''(C) funds for curriculum development related to the institution of college preparation classes.

''(3) PERMISSIBLE ACTIVITIES.—In addition to the activities described in paragraph (1), an eligible entity described in section 404A(2) may provide other services or supports that are designed to ensure the secondary school completion and college enrollment of children at risk of dropping out of school, such as comprehensive mentoring, counseling, outreach, and supportive services. Examples of activities that meet the requirements of the preceding sentence include the following:

''(A) Providing participating students in elementary school, middle school, or secondary school through grade 12 with a continuing system of mentoring and advising that—

''(i) is coordinated with the Federal and State community service initiatives; and

''(ii) may include such support services as after school and summer tutoring, assistance in obtaining summer jobs, career mentoring, and academic counseling.

''(B) Requiring each student to enter into an agreement under which the student agrees to achieve certain academic milestones, such as completing a prescribed set of courses and maintaining satisfactory progress described in section 484(c), in exchange for receiving tuition assistance for a period of time to be established by each eligible entity.

''(C) Activities such as the identification of children at risk of dropping out of school, volunteer and parent involvement, providing former or current scholarship recipients as mentor or peer counselors, skills assessment, personal counseling, family counseling and home visits, and programs and activities that are specially designed for students of limited English proficiency and students with disabilities.

''(D) Summer programs for individuals who are in their sophomore or junior years of secondary school or are planning to attend an institution of higher education in the succeeding academic year, that—

''(i) are carried out at an institution of higher education which has programs of academic year supportive services for disadvantaged students through projects authorized under section 402D or through comparable projects funded by the State or other sources;

''(ii) provide for the participation of the individuals who are eligible for assistance under section 402D or who are eligible for comparable programs funded by the State;

''(iii)(I) provide summer instruction in remedial, developmental or supportive courses;

''(II) provide such summer services as counseling, tutoring, or orientation; and

''(III) provide financial assistance to the individuals to cover the individuals' summer costs for books, supplies, living costs, and personal expenses; and

''(iv) provide the individuals with financial assistance during each academic year the individuals are enrolled at the participating institution after the summer program.

''(E) Requiring eligible students to meet other standards or requirements as the State determines necessary to meet the purposes of this section.

''(F) Financial aid counseling and information regarding the opportunities for financial assistance.

''(G) Providing activities or information regarding—

''(i) fostering and improving parent involvement in—

''(I) promoting the advantages of a college education;

''(II) academic admission requirements; and

''(III) the need to take college preparation courses;

''(ii) college admission and achievement tests; and

''(iii) college application procedures.

''(b) USE OF FUNDS FOR STATES.—

''(1) MANDATORY ACTIVITIES.—In order to receive a grant under this chapter, an eligible entity described in section 404A(1) shall demonstrate to the satisfaction of the Secretary, in the plan submitted under section 404E, that the eligible entity will provide—

''(A) policy leadership designed to promote the college readiness of students in the State, especially those who are at risk of dropping out of school and those who are economically disadvantaged; and

''(B) if there are eligible entities in the State that received a grant under this chapter, services designed to promote coordination and information sharing among all such eligible entities in the State.

''(2) PERMISSIBLE ACTIVITIES.—

''(A) POLICY LEADERSHIP.—In order to meet the requirements of paragraph (1)(A), an eligible entity described in section 404A(1) may engage in the following activities:

''(i) Developing a core curriculum of college preparatory classes that can be adopted by all State secondary schools.

''(ii) Facilitating curriculum development in individual schools where needed.

''(iii) Supporting and creating professional development opportunities for teachers in relation to the core curriculum.

''(iv) Facilitating the alignment of kindergarten through grade 12 classes with the requirements for passing college entrance exams, and entering college without the need for remedial courses.

''(v) Convening and consulting with groups of individuals and organizations that can provide input and expertise related to clauses (i), (ii), (iii), and (iv).

''(vi) Developing a comprehensive, statewide database that can be used to track indicators of college readiness, and to track enrollment in and completion of college, among the secondary school students in the State.

''(vii) Other activities that will promote the college readiness of students in the State, especially students who are considered at risk for not completing secondary school.

''(C) COORDINATION AND INFORMATION SHARING.—In order to meet the requirements of paragraph (1)(B), an eligible entity described in section 404A(1) may engage in the following activities:

''(i) Providing technical assistance and training for eligible entities described in section 404A(2) that receive a grant under this chapter.

''(ii) Disseminating information about best practices among eligible entities described in section 404A(2) that receive a grant under this chapter.

''(iii) Providing eligible entities described in section 404A(2) that receive a grant under this chapter with opportunities for coordinating their efforts and networking.

''(iv) Assisting eligible entities described in section 404A(2) that receive a grant under this chapter in adopting a core curriculum and providing professional development opportunities for teachers.

''(v) Providing a centralized source of information, regarding college planning, college entrance requirements, and opportunities for financial aid, to students in the State.

''(vi) Providing other services that promote and support the activities of eligible entities described in section 404A(2) in the State that receive a grant under this chapter.

''(c) ALLOWABLE PROVIDERS.—In the case of eligible entities described in section 404A(1), the activities required by this section may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4, and other organizations the State determines appropriate.

''SEC. 404E. ELIGIBLE ENTITY PLANS.

''(a) PLAN REQUIRED FOR ELIGIBILITY.—

''(1) IN GENERAL.—In order for an eligible entity to receive a grant under this chapter, the eligible entity shall submit to the Secretary a plan for carrying out the program under this chapter.

''(2) CONTENTS.—Each plan submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may require by regulation. Each plan shall—

''(A) describe the activities for which assistance under this chapter is sought; and

''(B) provide such assurances as the Secretary determines necessary to ensure compliance with the requirements of this chapter.

''(3) ADDITIONAL REQUIREMENTS FOR PARTNERSHIPS.—An eligible entity described in section 404A(2) shall also include in its plan—

''(A) a description of the college preparation curriculum that will be instituted;

''(B) a description of all uses of funds;

''(C) a description of how the funds provided under this chapter shall be used to affect systemic schoolwide change that will ensure that future cohorts of students will also benefit from the use of the grant funds; and

''(D) a needs analysis detailing the ways in which the funds provided under this chapter will be most profitably used to ensure the success of curricular changes (for example, by spending such funds on professional development, the purchase of curricular materials, or other activities).

''(4) ADDITIONAL REQUIREMENTS FOR STATES.—An eligible entity described in section 404A(1) shall also include in its plan—

''(A) an assessment of the activities and programs most needed to enhance the college readiness of students in the State;

''(B) a description of how the proposed activities will enhance the college readiness of students in the State;

''(C) a description of how the State will ensure that students who are at risk of dropping out of school and those who are economically disadvantaged receive and benefit from the proposed activities; and

''(D) if applicable, a description of how the proposed activities will promote coordination and information-sharing among all eligible entities in the State that receive a grant under this chapter.

''(b) MATCHING REQUIREMENT.—

''(1) IN GENERAL.—The Secretary shall not approve a plan submitted under subsection (a) unless such plan—

''(A) provides that the eligible entity will provide, from State, local, institutional, or private funds, not less than 50 percent of the cost of the program, which matching funds may be provided in cash or in kind;

''(B) specifies the methods by which matching funds will be paid; and

''(C) includes provisions designed to ensure that funds provided under this chapter shall supplement and not supplant funds expended for existing programs.

''(2) SPECIAL RULE.—Notwithstanding the matching requirement described in paragraph (1)(A), the Secretary may modify, by regulation, the percentage requirement described in paragraph (1)(A) for eligible entities described in section 404A(2).

''(3) METHODS FOR COMPLYING WITH MATCHING REQUIREMENT.—An eligible entity may count toward the matching requirement described in subsection (b)(1)(A)—

''(A) the amount of the financial assistance paid to students from State, local, institutional, or private funds under this chapter;

''(B) the amount of tuition, fees, room or board waived or reduced for recipients of financial assistance under this chapter; and

''(C) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations.

''(c) PEER REVIEW PANELS.—The Secretary shall convene peer review panels to assist in making determinations regarding the awarding of grants under this chapter.

''SEC. 404F. REQUIREMENTS.

''(a) COORDINATION.—Each eligible entity shall ensure that the activities assisted under this chapter are, to the extent practicable, coordinated with, and complement and enhance—

''(1) services under this chapter provided by other eligible entities serving the same school district or State; and

''(2) related services under other Federal or non-Federal programs.

''(b) DESIGNATION OF FISCAL AGENT.—An eligible entity described in section 404A(2) shall designate an institution of higher education or a local educational agency as the fiscal agent for the eligible entity for purposes of this chapter.

''(c) COORDINATORS.—Each eligible entity described in section 404A(2) that receives a grant under this chapter shall have a full-time program coordinator or a part-time program coordinator, whose primary responsibility is to assist such eligible entity in carrying out the authorized activities described in section 404D(a).

''(d) DISPLACEMENT.—An eligible entity described in 404A(2) shall ensure that the activities assisted under this chapter will not displace an employee or eliminate a position at a school assisted under this chapter, including a partial displacement such as a reduction in hours, wages, or employment benefits.

''SEC. 404G. EVALUATION AND REPORT.

''(a) EVALUATION.—Each eligible entity receiving a grant under this chapter shall biennially evaluate the activities assisted under this chapter in accordance with the standards described in subsection (b) and shall submit to the Secretary a copy of such evaluation. The evaluation shall permit service providers to track eligible student progress during the period such students are participating in the activities and shall be consistent with the standards developed by the Secretary pursuant to subsection (b).

''(b) EVALUATION STANDARDS.—The Secretary shall prescribe standards for the evaluation described in subsection (a). Such standards shall—

''(1) provide for input from eligible entities and service providers; and

''(2) ensure that data protocols and procedures are consistent and uniform.

''(c) FEDERAL EVALUATION.—In order to evaluate and improve the impact of the activities assisted under this chapter, the Secretary shall, from not more than 0.75 percent of the funds appropriated under section 404H for a fiscal year, award 1 or more grants, contracts, or cooperative agreements to or with public and private institutions and organizations, to enable the institutions and organizations to evaluate the effectiveness of the program and, as appropriate, disseminate the results of the evaluation.

''(d) REPORT.—The Secretary shall biennially report to Congress regarding the activities assisted under this chapter and the evaluations conducted pursuant to this section.

''SEC. 404H. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this chapter $400,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 172—AFFIRMING THE IMPORTANCE OF A NATIONAL WEEKEND OF PRAYER FOR THE VICTIMS OF GENOCIDE AND CRIMES AGAINST HUMANITY IN DARFUR, SUDAN, AND EXPRESSING THE SENSE OF THE SENATE THAT JULY 15 THROUGH 17, 2005, SHOULD BE DESIGNATED AS A NATIONAL WEEKEND OF PRAYER AND REFLECTION FOR DARFUR

Mr. BROWNBACK (for himself and Mr. CORZINE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 172

Whereas, on July 22, 2004, Congress declared that genocide was taking place in Darfur, Sudan;

Whereas, on September 9, 2004, Secretary of State Colin L. Powell testified to the Senate Committee on Foreign Relations that ''genocide has been committed in Darfur'';

Whereas, on September 21, 2004, President George W. Bush stated to the United Nations General Assembly that ''the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide'';

Whereas Article 1 of the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris December 9, 1948, and entered into force January 12, 1951, states that ''[t]he Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish'';

Whereas fundamental human rights, including the right to freedom of thought, conscience, and religion, are protected in numerous international agreements and declarations;

Whereas the United Nations Security Council, in Security Council Resolution 1591, condemned the ''continued violations of the N'djamena Ceasefire Agreement of 8 April 2004 and the Abuja Protocols of 9 November 2004 by all sides in Darfur and the deterioration of the security situation and negative impact this has had on humanitarian assistance efforts'';

Whereas scholars estimate that as many as 400,000 have died from violence, hunger and disease since the outbreak of conflict in Darfur began in 2003, and that as many as 10,000 may be dying each month;

Whereas it is estimated that more than 2,000,000 people have been displaced from their homes and remain in camps in Darfur and Chad;

Whereas religious leaders, genocide survivors, and world leaders have expressed grave concern over the continuing atrocities taking place in Darfur; and

Whereas it is appropriate that the people of the United States, leaders and citizens alike, unite in prayer for the people of Darfur and reflect upon the situation in Darfur: Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) that the weekend of July 15 through 17, 2005, should be designated as a National Weekend of Prayer and Reflection for Darfur, Sudan;

(2) to encourage the people of the United States to observe that weekend by praying for an end to the genocide and crimes against humanity and for lasting peace in Darfur, Sudan; and

(3) to urge all churches, synagogues, mosques, and religious institutions in the United States to consider the issue of Darfur in their activities and to observe the National Weekend of Prayer and Reflection with appropriate activities and services.

SENATE RESOLUTION 173—EXPRESSING SUPPORT FOR THE GOOD FRIDAY AGREEMENT OF 1998 AS THE BLUEPRINT FOR LASTING PEACE IN NORTHERN IRELAND

Mr. KENNEDY (for himself, Ms. COLLINS, Mr. DODD, Mr. MCCAIN, Mr. BIDEN, and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

Mr. KENNEDY. Mr. President, Senators COLLINS, DODD, MCCAIN, BIDEN, LEAHY and I are submitting a resolution expressing support for the 1998 Good Friday Agreement as the blueprint for lasting peace in Northern Ireland. All of us are hopeful that a constructive way forward will be found, and the way to do so is by continuing to implement the Good Friday Agreement.

The 1998 agreement was endorsed in a referendum by the overwhelming majority of people in Northern Ireland and in the Republic of Ireland. The parties to the Good Friday Agreement made a clear commitment to ''partnership, equality, and mutual respect'' as the basis for moving forward to end the long-standing conflict and achieve lasting peace for all the people of Northern Ireland. The parties to the agreement affirmed their ''total and absolute commitment to exclusively democratic and peaceful means'' to achieve the goal of peace.

Our resolution reiterates the support for the agreement as the way forward in Northern Ireland. It rejects the statement of Democratic Unionist leader Ian Paisley, who said in May that the Good Friday Agreement ''should be given a reasonable burial.'' Inclusive power sharing based on the defining qualities of the agreement is essential to the viability and success of the peace process.

The resolution calls on the Irish Republican Army to immediately complete the process of decommissioning, cease to exist as a paramilitary organization, and end its involvement in any way in paramilitary and criminal activity. We know that discussion of the issue is underway within the IRA, and we all await a final, positive, and decisive action.

In addition, the resolution calls on the Democratic Unionist Party in Northern Ireland to share power with all the other parties, according to the democratic mandate of the Good Friday Agreement, and commit to work in good faith with all the institutions established under the agreement, including the Executive and the North-South Ministerial Council, to benefit all the people of Northern Ireland.

It calls on Sinn Fein to work in good faith with the Police Service of Northern Ireland.

It also calls for justice in the case of Robert McCartney, the Belfast citizen who was brutally murdered there in January.

Finally, the resolution calls on the British Government to permanently restore the democratic institutions of Northern Ireland and complete the process of demilitarization in Northern Ireland and advance equality and human rights in Northern Ireland.

The U.S. Government continues to strongly support the peace process in Northern Ireland. The Government of the United Kingdom and the Government of Ireland continue to strongly support the Good Friday Agreement as the way forward.

The Good Friday Agreement is the only way forward in Northern Ireland, and it deserves our strong support. I urge my colleagues to approve this resolution.

S. RES. 173

Whereas in 1998, the Good Friday Agreement, signed on April 10, 1998, in Belfast, was endorsed in a referendum by the overwhelming majority of people in Northern Ireland;

Whereas the parties to the Good Friday Agreement made a clear commitment to ''partnership, equality, and mutual respect'' as the basis for moving forward in pursuit of lasting peace in Northern Ireland;

Whereas the parties to the Good Friday Agreement also affirmed their ''total and absolute commitment to exclusively democratic and peaceful means'' in pursuit of lasting peace in Northern Ireland;

Whereas inclusive power-sharing based on these defining qualities is essential to the viability and advancement of the democratic process in Northern Ireland;

Whereas paramilitary and criminal activity in a democratic society undermines the trust and confidence that are essential in a political system based on inclusive power-sharing in Northern Ireland;

Whereas the United States Government continues to strongly support the peace process in Northern Ireland; and

Whereas the Government of the United Kingdom and the Government of Ireland continue to strongly support the Good Friday Agreement as the way forward in the peace process, and have committed themselves to its implementation: Now, therefore, be it

Resolved, That—

(1) the Senate reiterates its support for the Good Friday Agreement, signed on April 10, 1998, in Belfast, as the blueprint for a lasting peace in Northern Ireland; and

(2) it is the sense of the Senate that—

(A) the Irish Republican Army must immediately—

(i) complete the process of decommissioning;

(ii) cease to exist as a paramilitary organization; and

(iii) end its involvement in any way in paramilitary and criminal activity;

(B) the Democratic Unionist Party in Northern Ireland must—

(i) share power with all parties according to the democratic mandate of the Good Friday Agreement; and

(ii) commit to work in good faith with all the institutions of the Good Friday Agreement, which established an inclusive Executive and the North-South Ministerial Council, for the benefit of all the people of Northern Ireland;