

Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1687

At the request of Ms. STABENOW, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of amendment No. 1687 proposed to H.R. 2862, a bill making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1688

At the request of Ms. STABENOW, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Wisconsin (Mr. KOHL) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 1688 proposed to H.R. 2862, a bill making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1694

At the request of Mr. LEAHY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of amendment No. 1694 proposed to H.R. 2862, a bill making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1695

At the request of Mr. KERRY, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of amendment No. 1695 proposed to H.R. 2862, a bill making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

## AMENDMENT NO. 1703

At the request of Mr. PRYOR, the names of the Senator from Nebraska (Mr. NELSON), the Senator from New Mexico (Mr. BINGAMAN), the Senator from North Dakota (Mr. DORGAN), the Senator from Hawaii (Mr. INOUE), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Illinois (Mr. DURBIN), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KERRY) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of amendment No. 1703 proposed to H.R. 2862, a bill making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of amendment No. 1703 proposed to H.R. 2862, *supra*.

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 1703 proposed to H.R. 2862, *supra*.

At the request of Mr. TALENT, his name was added as a cosponsor of

amendment No. 1703 proposed to H.R. 2862, *supra*.

At the request of Mr. LEAHY, his name was added as a cosponsor of amendment No. 1703 proposed to H.R. 2862, *supra*.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 1697. A bill to amend the Internal Revenue Code of 1986 to allow the Hope Scholarship Credit to cover fees, books, supplies, and equipment and to exempt Federal Pell Grants and Federal supplemental educational opportunity grants from reducing expenses taken into account for the Hope Scholarship Credit; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, Senator SMITH and I are introducing legislation today that would allow more students in our Nation to take full advantage of the Hope Scholarship Tax Credit.

Since it was signed into law by President Clinton in 1997, the Hope Scholarship Tax Credit has annually helped millions of students reduce the cost of going to college. In 2003 alone, more than 7.3 million college students claimed this and the Lifetime Learning tax credit. This credit, which can be as much as \$1,500, has helped families offset the increasing cost of college—costs that have gone up 51 percent at public 4-year colleges, 36 percent at private 4-year colleges and 26 percent at public 2-year colleges over the past decade.

Unfortunately, many students and their families are unable to take advantage of the maximum amount of the credit because it is limited to covering “tuition and related expenses.” Students that attend colleges with lower tuition costs, such as those at many of our Nation’s community colleges, are not entitled to the maximum amount of the credit. As we all know, tuition is just one of the many expenses associated with going to college. Room, board, books, supplies, equipment and fees can be prohibitively expensive for those who attend colleges that have reasonable tuition charges.

The bill addresses this inequity, by allowing the Hope scholarship tax credit to cover expenses associated with fees, books, supplies, and equipment. To limit the bill’s cost, a student’s room, board and related expenses would remain excluded. It is important to note that the Tax Code commonly recognizes non-tuition expenses, including substantial living expenses, in programs such as section 529 plans and tax-exempt, pre-paid tuition plans. Our bill, reasonably, covers a much more limited subset of these same expenses.

In addition, the legislation changes the Tax Code so that any Federal Pell grants and Federal Supplemental Educational Opportunity Grants students receive are not counted against their eligible expenses when Hope eligibility is calculated. This change will provide

some assistance to needier students, especially those attending 4-year public colleges. However, since the Hope tax credit will remain non-refundable, the costs of these changes will remain low.

Both of these modest changes will make college more affordable to many students and families that do not currently benefit from many of the other tax provisions that are targeted to more wealthy families. For many of these students, the ability to get the maximum amount of the tax credit may be the difference in the student being able to take an additional class or not having to sit out a semester.

This legislation is supported by the American Council on Education, the United States Student Association, the American Association of Community Colleges, the American Association of State Colleges and Universities, the National Association of State Universities and Land Grant Colleges, the Association of Jesuit Colleges and Universities, the Hispanic Association of Colleges and Universities, and a number of other prominent higher education organizations.

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

S. 1698. A bill to accelerate efforts to develop vaccines for diseases primarily affecting developing countries and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, this week world leaders are meeting at the United Nations to reaffirm the commitments made five years ago under the United Nations Millennium Declaration, including the commitment to halt and begin to reverse by the year 2015 the spread of HIV/AIDS, malaria, and other major diseases that claim the lives of millions of people around the world every year. We still have a long way to go if we are going to meet this challenge.

AIDS, which has already claimed the lives of 20 million people, continues to be the leading cause of premature death in sub-Saharan Africa. An estimated 39 million people worldwide are infected with HIV. Last year alone, 4.9 million people were newly infected with HIV, and 3.1 million died. For years, the epidemic was focused on sub-Saharan Africa, but now HIV is spreading fastest in Central Europe and in parts of Asia.

Although the AIDS pandemic has gripped the world’s notice, other diseases such as malaria and tuberculosis have drawn less attention—but they too are deadly, particularly for those in the world’s poorest countries. Malaria claims the lives of a million people annually, many of them young children; ninety percent of these deaths occur among people living in sub-Saharan Africa. Tuberculosis, once thought to be eradicated, has reemerged in new and more drug resistant strains. An estimated 1.7 million people now die annually from TB. Because those living

with HIV or AIDS are particularly vulnerable, the number of TB cases has been growing rapidly in sub-Saharan Africa and Central Europe.

Taken together HIV/AIDS, TB and malaria kill over 5 million people annually. A human crisis of this proportion demands that we respond with urgency and thoughtfulness. We must continue to support robust prevention, treatment and care programs. But we must also recognize that vaccines are the most effective weapons in the arsenal of modern medicine to stop the threat of AIDS and other infectious diseases that are decimating the developing world. Pharmaceutical and biotechnology companies, however, are reluctant to invest in research for vaccines for these diseases because they fear that the market will not be lucrative enough to cover the costs of research and development.

The bill that I am introducing today, Vaccines for the New Millennium Act of 2005, is designed to address this problem by providing incentives for these companies to accelerate their efforts to develop vaccines and microbicides to prevent HIV/AIDS, TB, malaria and other neglected diseases. It builds upon legislation that I introduced in 2001 with Senator FRIST. I am pleased that the Chairman of the Foreign Relations Committee, Senator LUGAR, is joining me in introducing this new, expanded bill.

The bill provides a variety of economic incentives. First, it mandates that the Secretary of the Treasury enter into negotiations with the World Bank, the International Development Association, the Global Alliance for Vaccines and Immunizations, and other interested parties in order to establish advanced market commitments, AMCs, for the purchase of vaccines and microbicides to combat neglected diseases. Research has shown that the major obstacle to the development of vaccines for these diseases is the absence of a market because these diseases hit hardest in poor countries that cannot afford to buy the vaccines. Advanced market commitments AMCs are designed to remove this obstacle by creating the market ahead of time. AMCs would be legally binding contracts to purchase a vaccine or microbicide at a fair market price for a guaranteed number of treatments, thereby creating a market incentive for a company to invest in the development and production of vaccines for these diseases. The international framework for the AMCs would also include clearly defined requirements for eligible vaccines to ensure that they are safe and effective as well as clearly defined and transparent rules of competition. The bill also mandates that the Secretary establish a purchase fund in the Treasury as soon as a vaccine to combat one of these diseases is available.

Second, the bill supplements the market incentive with a variety of tax incentives designed to provide appro-

priate and equitable incentives to both large pharmaceutical and small private sector companies to stimulate vaccine development. The bill provides a 30 percent tax credit each year on qualified research expenses to develop microbicides for HIV and vaccines for HIV, TB, malaria and other neglected diseases that kill more than 1 million people annually. This is an expansion of the existing R&D tax credit and can be applied to clinical trials outside of the United States, since the majority of those infected with these diseases are beyond our borders.

It provides a refundable tax credit to small biotechnology companies based on the amount of qualified research that they do in a given year. This credit is designed to stimulate research among the firms that are the most innovative and to ensure that assistance is given to those small companies that need it the most. Increased research efforts by these firms could be instrumental to the effort to develop effective vaccines for neglected diseases, particularly for HIV/AIDS.

And it provides a 100 percent tax credit on contracts and other arrangements for research and development of these vaccines and microbicides. This credit, which is an increase over the 65 percent credit now in the tax code, is designed to serve as an incentive to larger pharmaceutical companies to work hand in hand with the smaller biotech companies to pick up the pace of vaccine development.

Once vaccines are developed, it is imperative that they be widely distributed. The bill that I am introducing today with Senator LUGAR also addresses the distribution side of the equation. It provides a 100 percent tax credit to companies on the sales of new vaccines and microbicides as long as those sales are made to a qualified international health organization or foreign government for distribution in developing countries.

Finally, the bill sets up a pilot program under the Small Business Act to encourage the development of vaccines and microbicides by eligible companies under the auspices of the Small Business Innovation Research, SBIR, and the Small Business Technology Transfer, STTR, programs in US government agencies with a global health or disease prevention mission. Under this pilot program, these agencies have new authority to undertake outreach activities to eligible biotech firms and other small business to promote the objectives of the pilot program.

In recent years, a number of pharmaceutical companies have taken steps to help in the treatment of those infected with AIDS by providing life-extending therapies to the developing world at reduced costs. These drugs are critically important but the war against AIDS cannot be won unless we develop vaccines against the HIV virus and other neglected diseases. The pharmaceutical and biotech companies hold the key

Many steps need to be taken in the war against these diseases. This bill fo-

cuses on only one area but a critically important one: vaccine development and distribution. If the public and private sectors work together with energy and commitment, I believe we can develop the vaccines, and once developed, we will win the war against these deadly diseases that victimize so many in the developing world.

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. 1698

*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 "Vaccines for the New Millennium Act of 2005".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) AIDS.—The term "AIDS" has the meaning given the term in section 104A(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b-2).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

(3) DEVELOPING COUNTRY.—The term "developing country" means a country that the World Bank determines to be a country with a lower middle income or less.

(4) HIV/AIDS.—The term "HIV/AIDS" has the meaning given the term in section 104A(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b-2).

(5) GLOBAL ALLIANCE FOR VACCINES AND IMMUNIZATIONS.—The term "Global Alliance for Vaccines and Immunizations" means the public-private partnership launched in 2000 for the purpose of saving the lives of children and protecting the health of all people through the widespread use of vaccines.

(6) NEGLECTED DISEASE.—The term "neglected disease" means—

(A) HIV/AIDS;

(B) malaria;

(C) tuberculosis; or

(D) any infectious disease (of a single etiology), which, according to the World Health Organization, causes more than 1,000,000 deaths each year in developing countries.

(7) WORLD BANK.—The term "World Bank" means the International Bank for Reconstruction and Development.

#### SEC. 3. FINDINGS.

Congress makes the following findings:

(1) Immunization is cheap, reliable, and effective, and has made a profound impact on global health, in both rich and poor countries.

(2) During the 20th century, global immunization efforts have successfully led to the eradication of smallpox and the elimination of polio from the Western Hemisphere, Europe, and most of Asia. Vaccines for diseases such as measles and tetanus have dramatically reduced childhood mortality worldwide, and vaccines for diseases such as influenza, pneumonia, and hepatitis help prevent sickness and death of adults as well as children.

(3) According to the World Health Organization, combined, AIDS, tuberculosis, and malaria kill more than 5,000,000 people a year, most of whom are in the developing

world, yet there are no vaccines for these diseases.

(4) It is estimated that just 10 percent of the world's research and development on health is targeted on diseases affecting 90 percent of the world's population.

(5) Economic disincentives result in little private sector investment in vaccines for neglected diseases, a situation which disproportionately affects populations in developing countries.

(6) Of more than \$100,000,000,000 spent on health research and development across the world, only \$6,000,000,000 is spent each year on diseases that are specific to developing countries, most of which is from public and philanthropic sources.

(7) Infants, children, and adolescents are among the populations hardest hit by AIDS and malaria, but they are at risk of being left behind in the search for effective vaccines against such diseases.

(8) Providing a broad range of economic incentives to increase private sector research on neglected diseases, including increased public and private sector funding for research and development, guaranteed markets, tax credits, and improved regulatory procedures would increase the number of products in development and the likelihood of finding effective vaccines for such diseases.

#### SEC. 4. SENSE OF CONGRESS ON SUPPORT FOR NEGLECTED DISEASES.

It is the sense of Congress that—

(1) the President should continue to encourage efforts to support the Global HIV Vaccine Enterprise, a virtual consortium of scientists and organizations committed to accelerating the development of an effective HIV vaccine;

(2) the United States should work with the Global Fund to Fight AIDS, Tuberculosis and Malaria, the Joint United Nations Programme on HIV/AIDS ("UNAIDS"), the World Health Organization, the International AIDS Vaccine Initiative, and the World Bank to ensure that all countries heavily affected by the HIV/AIDS pandemic have national AIDS vaccine plans;

(3) the United States should support and encourage the carrying out of the agreements of the Group of 8 made at the 2005 Summit at Gleneagles, Scotland, to increase direct investment and create market incentives, including through public-private partnerships and advance market commitments, to complement public research in the development of vaccines, microbicides, and drugs for HIV/AIDS, malaria, tuberculosis, and other neglected diseases;

(4) the United States should support testing of promising vaccines in infants, children, and adolescents as early as is medically and ethically appropriate, in order to avoid significant delays in the availability of pediatric vaccines at the cost of thousands of lives;

(5) the United States should continue supporting the work of the Global Alliance for Vaccines and Immunizations and the Global Fund for Children's Vaccines as appropriate and effective vehicles to purchase and distribute vaccines for neglected diseases at an affordable price once such vaccines are discovered in order to distribute them to the developing world; and

(6) the United States should work with others in the international community to address the multiple obstacles to the development of vaccines for neglected diseases including scientific barriers, insufficient economic incentives, protracted regulatory procedures, lack of delivery systems for products once developed, liability risks, and intellectual property rights.

#### SEC. 5. PUBLIC-PRIVATE PARTNERSHIPS.

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

(1) Creative partnerships between governments and organizations in the private sector (including foundations, universities, corporations including pharmaceutical companies and biotechnology firms, community-based organizations and other nongovernmental organizations) are playing a critical role in the area of global health, particularly in the fight against neglected diseases, including HIV/AIDS, tuberculosis, and malaria.

(2) Public-private sector partnerships increase local and international capacities to improve the delivery of health services in developing countries and to accelerate research and development of vaccines and other preventive medical technologies essential to combating infectious diseases that disproportionately kill people in developing countries.

(3) These partnerships maximize the unique capabilities of each sector while combining financial and other resources, scientific knowledge, and expertise toward common goals which cannot be achieved by either sector alone.

(4) Public-private partnerships such as the International AIDS Vaccine Initiative, the Malaria Vaccine Initiative, and the Global TB Drug Facility are playing cutting edge roles in the efforts to develop vaccines for these diseases.

(5) Public-private partnerships serve as incentives to the research and development of vaccines for neglected diseases by providing biotechnology companies, which often have no experience in developing countries, with technical assistance and on the ground support for clinical trials of the vaccine through the various stages of development.

(6) Sustaining existing public-private partnerships and building new ones where needed are essential to the success of the efforts by the United States and others in the international community to find a cure for these and other neglected diseases.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the sustainment and promotion of public-private partnerships must be a central element of the strategy pursued by the United States to create effective incentives for the development of vaccines and other preventive medical technologies for neglected diseases debilitating the developing world; and

(2) the United States government should take steps to address the obstacles to the development of these technologies by increasing investment in research and development and establishing market and other incentives.

(c) POLICY.—It is the policy of the United States to accelerate research and development for vaccines and microbicides for neglected diseases by substantially increasing funding for public-private partnerships that invest directly in research, such as the International AIDS Vaccine Initiative, the Malaria Vaccine Initiative, and the Global TB Drug Facility, and for partnerships such as the Vaccine Fund that incentivize the development of new vaccines by purchase existing vaccines.

#### SEC. 6. COMPREHENSIVE STRATEGY FOR ACCELERATING THE DEVELOPMENT OF VACCINES FOR NEGLECTED DISEASES.

(a) REQUIREMENT FOR STRATEGY.—The President shall establish a comprehensive strategy to accelerate efforts to develop vaccines and microbicides for neglected diseases such as HIV/AIDS, malaria, and tuberculosis. Such strategy shall—

(1) expand public-private partnerships and the leveraging of resources from other countries and the private sector;

(2) include initiatives to create economic incentives for the research, development, and manufacturing of vaccines for HIV/AIDS, tuberculosis, malaria, and other neglected diseases;

(3) include the negotiation of advanced market commitments;

(4) address intellectual property issues surrounding the development of vaccines and microbicides for neglected diseases;

(5) maximize United States capabilities to support clinical trials of vaccines and microbicides in developing countries;

(6) address the issue of regulatory approval of such vaccines, whether through the Commissioner of the Food and Drug Administration, or the World Health Organization or another internally-recognized and agreed upon entity;

(7) expand the purchase and delivery of existing vaccines; and

(8) address the challenges of delivering vaccines in developing countries in advance so as to minimize historical delays in access once vaccines are available.

(b) REPORT.—Not later than 270 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report setting forth the strategy described in subsection (a) and the steps to implement such strategy.

#### SEC. 7. ADVANCED MARKET COMMITMENTS.

(a) PURPOSE.—The purpose of this section is to create incentives for the private sector to invest in research, development, and manufacturing of vaccines for neglected diseases by creating a competitive market for future vaccines through advanced market commitments.

(b) AUTHORITY TO NEGOTIATE.—

(1) IN GENERAL.—The Secretary of the Treasury shall enter into negotiations with the appropriate officials of the World Bank, the International Development Association, and Global Alliance for Vaccines and Immunizations, the member nations of such entities, and other interested parties for the purpose of establishing advanced market commitments to purchase vaccines and microbicides to combat neglected diseases.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the status of the negotiations to create advanced market commitments under this section.

(c) REQUIREMENTS.—The Secretary of the Treasury shall work with the entities referred to in subsection (b) to ensure that there is an international framework for the establishment and implementation of advanced market commitments and that such commitments include—

(1) legally binding contracts for product purchase that include a fair market price for a guaranteed number of treatments to ensure that the market incentive is sufficient;

(2) clearly defined and transparent rules of competition for qualified developers and suppliers of the product;

(3) clearly defined requirements for eligible vaccines to ensure that they are safe and effective;

(4) dispute settlement mechanisms; and

(5) sufficient flexibility to enable the contracts to be adjusted in accord with new information related to projected market size and other factors while still maintaining the purchase commitment at a fair price.

(d) TRUST FUND.—

(1) AUTHORITY TO ESTABLISH.—On the date that the Secretary of the Treasury determines that a vaccine to combat a neglected disease is available for purchase, the Secretary shall establish in the Treasury of the United States a fund to be known as the

Lifesaving Vaccine Purchase Fund consisting of amounts appropriated pursuant to paragraph (4).

(2) INVESTMENT OF FUND.—Amounts in such Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from any such investment shall be credited to and become part of the Fund.

(3) USE OF FUND.—The Secretary is authorized to expend amounts in such Fund for the purchase of a vaccine to combat a neglected disease pursuant to an advanced market commitment undertaken on behalf of the Government of the United States.

(4) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The President may accept and use in furtherance of the purposes of this Act contributions from nongovernmental organizations, international health agencies, the United Nations, the Global Fund to Fight AIDS, Tuberculosis and Malaria, private nonprofit organizations that are organized to support public health research and programs, and any other organizations willing to contribute to the Lifesaving Vaccine Purchase Fund.

(5) APPROPRIATIONS.—

(A) IN GENERAL.—For each fiscal year beginning after the date that the Secretary determines that a vaccine to combat a neglected disease is available for purchase, there are authorized to be appropriated out of any funds in the Treasury not otherwise appropriated such sums as may be necessary to carry out the purposes of such Fund.

(B) TRANSFER OF FUNDS.—The Secretary shall transfer the amount appropriated under paragraph (1) for a fiscal year to such Fund.

(C) AVAILABILITY.—Amounts appropriated pursuant to this paragraph shall remain available until expended without fiscal year limitation.

**SEC. 8. CREDIT FOR MEDICAL RESEARCH RELATED TO DEVELOPING VACCINES AGAINST NEGLECTED DISEASES.**

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

**“SEC. 45J. CREDIT FOR MEDICAL RESEARCH RELATED TO DEVELOPING VACCINES FOR NEGLECTED DISEASES.**

“(a) GENERAL RULE.—For purposes of section 38, the vaccine research credit determined under this section for the taxable year is an amount equal to 30 percent of the qualified vaccine research expenses for the taxable year.

“(b) QUALIFIED VACCINE RESEARCH EXPENSES.—For purposes of this section—

“(1) QUALIFIED VACCINE RESEARCH EXPENSES.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term ‘qualified vaccine research expenses’ means the amounts which are paid or incurred by the taxpayer during the taxable year which would be described in subsection (b) of section 41 if such subsection were applied with the modifications set forth in subparagraph (B).

“(B) MODIFICATIONS; INCREASED INCENTIVE FOR CONTRACT RESEARCH PAYMENTS.—For purposes of subparagraph (A), subsection (b) of section 41 shall be applied—

“(i) by substituting ‘vaccine research’ for ‘qualified research’ each place it appears in paragraphs (2) and (3) of such subsection, and

“(ii) by substituting ‘100 percent’ for ‘65 percent’ in paragraph (3)(A) of such subsection.

“(C) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term ‘qualified vaccine research expenses’ shall not include any amount to the extent such amount is funded

by any grant, contract, or otherwise by another person (or any governmental entity).

“(2) VACCINE RESEARCH.—The term ‘vaccine research’ means research to develop vaccines and microbicides for—

“(A) HIV/AIDS (as that term is defined in section 104A(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 21516–2)),

“(B) malaria,

“(C) tuberculosis, or

“(D) any infectious disease (of a single etiology) which, according to the World Health Organization, causes more than 1,000,000 human deaths each year in developing countries.

“(c) COORDINATION WITH CREDIT FOR INCREASING RESEARCH EXPENDITURES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), any qualified vaccine research expenses for a taxable year to which an election under this section applies shall not be taken into account for purposes of determining the credit allowable under section 41 for such taxable year.

“(2) EXPENSES INCLUDED IN DETERMINING BASE PERIOD RESEARCH EXPENSES.—Any qualified vaccine research expenses for any taxable year which are qualified research expenses (within the meaning of section 41(b)) shall be taken into account in determining base period research expenses for purposes of applying section 41 to subsequent taxable years.

“(d) SPECIAL RULES.—

“(1) LIMITATIONS ON FOREIGN TESTING.—No credit shall be allowed under this section with respect to any vaccine research (other than human clinical testing) conducted outside the United States.

“(2) PRE-CLINICAL RESEARCH.—No credit shall be allowed under this section for pre-clinical research unless such research is pursuant to a research plan an abstract of which has been filed with the Secretary before the beginning of such year. The Secretary, in consultation with the Secretary of Health and Human Services, shall prescribe regulations specifying the requirements for such plans and procedures for filing under this paragraph.

“(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (1) and (2) of section 41(f) shall apply for purposes of this section.

“(4) ELECTION.—This section (other than subsection (e)) shall apply to any taxpayer for any taxable year only if such taxpayer elects to have this section apply for such taxable year.

“(e) CREDIT TO BE REFUNDABLE FOR CERTAIN TAXPAYERS.—

“(1) IN GENERAL.—In the case of an electing qualified taxpayer—

“(A) the credit under this section shall be determined without regard to section 38(c), and

“(B) the credit so determined shall be allowed as a credit under subpart C.

“(2) ELECTING QUALIFIED TAXPAYER.—For purposes of this subsection, the term ‘electing qualified taxpayer’ means, with respect to any taxable year, any domestic C corporation if—

“(A) the aggregate gross assets of such corporation at any time during such taxable year are \$500,000,000 or less,

“(B) the net income tax (as defined in section 38(c)) of such corporation is zero for such taxable year and the 2 preceding taxable years,

“(C) as of the close of the taxable year, the corporation is not under the jurisdiction of a court in a title 11 or similar case (within the meaning of section 368(a)(3)(A)),

“(D) the corporation provides such assurances as the Secretary requires that, not later than 2 taxable years after the taxable year in which the taxpayer receives any re-

fund of a credit under this subsection, the taxpayer will make an amount of qualified vaccine research expenses equal to the amount of such refund, and

“(E) the corporation elects the application of this subsection for such taxable year.

“(3) AGGREGATE GROSS ASSETS.—Aggregate gross assets shall be determined in the same manner as such assets are determined under section 1202(d).

“(4) CONTROLLED GROUPS.—A corporation shall be treated as meeting the requirement of paragraph (2)(B) only if each person who is treated with such corporation as a single employer under subsections (a) and (b) of section 52 also meets such requirement.

“(5) SPECIAL RULES.—

“(A) RECAPTURE OF CREDIT.—The Secretary shall promulgate such regulations as necessary and appropriate to provide for the recapture of any credit allowed under this subsection in cases where the taxpayer fails to make the expenditures described in paragraph (2)(D).

“(B) EXCLUSION OF CERTAIN QUALIFIED VACCINE RESEARCH EXPENSES.—For purposes of determining the credit under this section for a taxable year, the qualified vaccine research expenses taken into account for such taxable year shall not include an amount paid or incurred during such taxable year equal to the amount described in paragraph (2)(D) (and not already taken into account under this subparagraph for a previous taxable year).”

(b) INCLUSION IN GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking “plus” at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting “, plus”, and by adding at the end the following new paragraph:

“(20) the vaccine research credit determined under section 45J.”

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(e) CREDIT FOR QUALIFIED VACCINE RESEARCH EXPENSES.—

“(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified vaccine research expenses (as defined in section 45J(b)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45J(a).

“(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2), (3), and (4) of subsection (c) shall apply for purposes of this subsection.”

(d) DEDUCTION FOR UNUSED PORTION OF CREDIT.—Section 196(c) of the Internal Revenue Code of 1986 (defining qualified business credits) is amended by striking “and” at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting “, and”, and by adding at the end the following new paragraph:

“(13) the vaccine research credit determined under section 45J(a) (other than such credit determined under the rules of section 280C(e)(2)).”

(e) TECHNICAL AMENDMENTS.—

(1) Section 1324(b)(2) of title 31, United States Code, is amended by inserting “or from section 45J(e) of such Code,” after “1978.”

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 45J. Credit for medical research related to developing vaccines against widespread diseases.”

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

(g) STUDY.—

(1) IN GENERAL.—The National Institutes of Health shall conduct a study of the extent to which the credit under section 45J of the Internal Revenue Code of 1986, as added by subsection (a), has stimulated vaccine research.

(2) REPORT.—Not later than the date that is 5 years after the date of the enactment of this Act, the National Institutes of Health shall submit to Congress the results of the study conducted under paragraph (1), together with recommendations (if any) to improve the effectiveness of such credit in stimulating vaccine research.

**SEC. 9. CREDIT FOR CERTAIN SALES OF LIFE-SAVING VACCINES.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits), as amended by section 4, is amended by adding at the end the following new section:

**“SEC. 45K. CREDIT FOR CERTAIN SALES OF LIFE-SAVING VACCINES.**

“(a) IN GENERAL.—For purposes of section 38, the lifesaving vaccine sale credit determined under this section with respect to a taxpayer for the taxable year is an amount equal to the amount of qualified vaccine sales for the taxable year.

“(b) QUALIFIED VACCINE SALES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified vaccine sales’ means the aggregate amount paid to the taxpayer for a qualified sale.

“(2) QUALIFIED SALE.—

“(A) IN GENERAL.—The term ‘qualified sale’ means a sale of a qualified vaccine—

“(i) to a nonprofit organization or to a government of any foreign country (or instrumentality of such a government), and

“(ii) for distribution in a developing country.

“(B) DEVELOPING COUNTRY.—For purposes of this paragraph, the term ‘developing country’ means a country which the Secretary determines to be a country with a lower middle income or less (as such term is used by the International Bank for Reconstruction and Development).

“(3) QUALIFIED VACCINE.—The term ‘qualified vaccine’ means any vaccine and microbicide—

“(A) which is described in section 45J(b)(2), and

“(B) which is approved as a new drug after the date of the enactment of this paragraph by—

“(i) the Food and Drug Administration,

“(ii) the World Health Organization, or

“(iii) the appropriate authority of a country included in the list under section 802(b)(1) of the Federal Food, Drug, and Cosmetic Act.

“(c) LIMIT ON AMOUNT OF CREDIT.—The maximum amount of the credit allowable under subsection (a) with respect to a sale shall not exceed the portion of the limitation amount allocated under subsection (d) with respect to such sale.

“(d) NATIONAL LIMITATION ON AMOUNT OF CREDITS.—

“(1) IN GENERAL.—Except as provided in paragraph (3), there is a lifesaving vaccine sale credit limitation amount for each calendar year equal to—

“(A) \$100,000,000 for each of years 2006 through 2010, and

“(B) \$125,000,000 for each of years 2011 through 2012.

“(2) ALLOCATION OF LIMITATION.—

“(A) IN GENERAL.—The limitation amount under paragraph (1) shall be allocated for any calendar year by the Administrator of the United States Agency for International Development (referred to in this section as the ‘Administrator’) among organizations

with an application approved by the Administrator in accordance with subparagraph (B).

“(B) APPLICATION FOR ALLOCATION.—The Administrator shall prescribe the procedures for an application for an allocation under this subsection and the factors to be taken into account in making such allocations. Such applications shall be made at such time and in such form and manner as the Administrator shall prescribe and shall include a detailed plan for distribution of the vaccine.

“(3) CARRYOVER OF UNUSED LIMITATION.—If the limitation amount under paragraph (1) for any calendar year exceeds the aggregate amount allocated under paragraph (2), such limitation for the following calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2024.

“(e) SPECIAL RULES.—For purposes of this section, rules similar to the rules of section 41(f)(2) shall apply.”

(b) INCLUSION IN GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit), as amended by section 4(b), is amended by striking “plus” at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting “, plus”, and by adding at the end the following new paragraph:

“(21) the lifesaving vaccine sale credit determined under section 45K.”

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by section 2(c), is amended by adding at the end the following new item:

“Sec. 45K. Credit for certain sales of lifesaving vaccines.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of vaccines after December 31, 2005, in taxable years ending after such date.

**SEC. 10. SBIR AND STTR PROGRAM FUNDING FOR VACCINE DEVELOPMENT.**

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

“(x) REQUIRED EXPENDITURES FOR THE DEVELOPMENT OF VACCINES FOR NEGLECTED DISEASES.—

“(1) SBIR EXPENDITURES.—Each agency required to make expenditures under subsection (f)(1) or under subsection (n)(1), that is determined by the Administrator to have a mission related to global health or disease prevention shall expend with small business concerns, in addition to any amounts required to be expended under subsections (f) and (n), not less than \$10,000,000 for fiscal year 2006 and each fiscal year thereafter, specifically in connection with SBIR and STTR programs which meet the requirements of this section, policy directives, and regulations to carry out this section, to carry out the pilot program established under this subsection.

“(2) PILOT PROGRAM.—During the 4-year period beginning on the date of enactment of the Vaccines for the New Millennium Act of 2005, the Administrator shall establish and carry out a program to encourage the development of vaccines and microbicides to combat a neglected disease, including outreach activities to raise awareness of such program.

“(3) ADMINISTRATIVE COSTS.—The limitations in subsection (f)(2) and (n)(2) shall not apply to agency expenditures under the pilot program established under this subsection.

“(4) REPORT.—Six months before the date of expiration of the pilot program established under this subsection, the Adminis-

trator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report containing an assessment of whether the pilot program is meeting the objective of providing incentives to small business concerns to research the development of vaccines and microbicides to combat a neglected disease, and an accounting of the expenditures for the pilot program.

“(5) DEFINITIONS.—As used in this subsection and subsection (j), the terms ‘neglected disease’ and ‘developing country’ have the same meanings as in section 2 of the Vaccines for the New Millennium Act of 2005.”

(b) POLICY OBJECTIVES.—Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended by adding at the end the following:

“(4) ADDITIONAL MODIFICATIONS FOR THE DEVELOPMENT OF VACCINES FOR A NEGLECTED DISEASE.—Not later than 90 days after the date of enactment of the Vaccines for the New Millennium Act of 2005, the Administrator shall modify the policy directives issued pursuant to this subsection to ensure that agencies participating in the SBIR and STTR programs develop an action plan for implementing the pilot program for the development of vaccines and microbicides to combat a neglected disease under subsection (x), including outreach to raise awareness of the pilot program.”

Mr. LUGAR. Mr. President, I rise to introduce with Senator KERRY the Vaccines for a New Millennium Act of 2005.

The AIDS crisis is devastating sub-Saharan Africa. According to the latest figures from UNAIDS, there are approximately 40 million people living with HIV/AIDS around the world. An estimated 4.9 million people were newly infected last year. This means that every day, some 14,000 people contract HIV/AIDS. Last year, an estimated 3 million people died from AIDS.

The AIDS crisis in sub-Saharan Africa has profound implications for political stability, development, and human welfare that extend far beyond the region. In addition to the current crisis in Africa, public health experts warn of a “second wave” of countries on the verge of potential AIDS crises, such as China, India, Russia, Nigeria, and Ethiopia.

Despite efforts through programs like the President’s Emergency Plan for AIDS Relief PEPFAR, the Global Fund to Fight AIDS, Tuberculosis, and Malaria, and the Bill and Melinda Gates Foundation to treat those living with HIV/AIDS and to prevent new infections, the disease is outpacing us. While prevention programs are critical in the struggle to slow the spread of the disease, over the long term, the most effective way to defeat this pandemic is through the development of an effective HIV vaccine.

In addition to AIDS, malaria and tuberculosis continue to kill many in the developing world. More than 300 million people are infected with malaria annually, and an estimated 1 million people—mostly children under the age of five—die from malaria. Combined, AIDS, tuberculosis, and malaria kill an estimated 5 million people a year. Yet

there are no vaccines for these diseases. While we must remain committed to current prevention and treatment programs, we must also look toward the future to see what hope science has for preventing the spread of these diseases.

Historically, vaccines have led to some of the greatest achievements in public health and are among the most cost-effective health interventions. During the 20th century, global immunization efforts have led to the eradication of smallpox and the elimination of polio from the Western Hemisphere, Europe and most of Asia. Vaccines for diseases such as measles and tetanus have dramatically reduced childhood mortality worldwide, and vaccines for diseases such as influenza, pneumonia, and hepatitis now help prevent sickness and death of adults, too.

Vaccines for these diseases would play an important role in saving lives in developing countries. Governments, private foundations, and the private sector have made enormous strides. Public-private partnerships have also contributed to scientific advances in this area. However, much more needs to be done.

Because of the promise that vaccines hold, Senator KERRY and I are introducing the "Vaccines for the New Millennium Act of 2005." Representative PETE VISCLOSKEY is introducing a companion bill in the House of Representatives. Our bill would require the United States to develop a comprehensive strategy to accelerate research and development in vaccines for HIV/AIDS, tuberculosis, malaria, and other infectious diseases that are major killers in the developing world. The strategy would require an increase in public-private partnerships, whereby public entities such as governments, team up with companies or private foundations to conduct research or vaccine trials. The bill would require the United States government to commit to purchase vaccines for these diseases once they are developed through "advance market commitments." Finally, the legislation would create a tax credit for companies that invest in research and development for vaccines for these diseases.

I am hopeful that Senators will join Senator KERRY and me in supporting this legislation.

By Mr. SPECTER (for himself, Mr. LEAHY, Mr. HATCH, Mr. DEWINE, Mr. CORNYN, Mr. BROWNBACK, Mr. VOINOVICH, Mr. FEINGOLD, Mr. LEVIN, Mr. BAYH, Mr. REED, and Ms. STABENOW):

S. 1699. A bill to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, on behalf of myself, Senator LEAHY, and my colleagues Senators HATCH, DEWINE, CORNYN, BROWNBACK, VOINOVICH, FEINGOLD, LEVIN, BAYH, REED, and

STABENOW, I seek recognition to introduce the Stop Counterfeiting in Manufactured Goods Act, a bill that amends title 18 of the United States Code to provide criminal penalties for trafficking in counterfeit marks.

This legislation closes a loophole in Federal trademark law, which currently criminalizes the trafficking in counterfeit trademarks "on or in connection with goods or services." This language, however, does not extend criminal liability to those persons who manufacture and/or traffic the counterfeit marks themselves, marks which are later applied to a product or service. In other words, Federal law does not prohibit a person Tom selling counterfeit labels bearing otherwise protected trademarks within the United States.

This current loophole was created in large part by the Tenth Circuit's opinion in *United States v. Giles*, 213 F.3d 1247 (10th Cir. 2000). In this case, the United States prosecuted the defendant for manufacturing and selling counterfeit Dooney & Bourke labels that third parties could later affix to generic purses. Examining Title 18, section 2320, of the United States Code, the Tenth Circuit held that persons who sell counterfeit trademarks that are not actually attached to any "goods or services" do not violate the Federal criminal trademark infringement statute. And because the defendant did not attach the counterfeit mark to a "good or service," the court found that the defendant did not run afoul of the criminal statute as a matter of law. Thus, an individual, caught red-handed with counterfeit trademarks, walked free. Congress must act now to close this loophole, which this legislation being introduced today will most certainly do. Specifically, the bill will prohibit the trafficking, or attempt to traffic, in "labels, patches, stickers" and generally any item to which a counterfeit mark has been applied.

In addition to closing the loophole, the Stop Counterfeiting in Manufactured Goods Act strengthens the criminal code's forfeiture provision by providing enhanced penalties for those trafficking in counterfeit marks, goods and services bearing counterfeit marks. Current law does not provide for the seizure and forfeiture of goods and services bearing counterfeit marks. As such, many times such counterfeit goods are seized one day, only to be returned and sold to an unsuspecting public. To ensure that individuals engaging in the practice of trafficking in counterfeit marks cannot reopen their doors, this bill provides procedures for the mandatory seizure, forfeiture, and destruction of counterfeit marks pre-conviction. Further, it provides for procedures for the mandatory forfeiture and destruction of property derived from or used to engage in the trafficking of counterfeit marks.

The trade in counterfeit marks is only part of a much larger problem. The Bureau of Customs and Border

Protection estimates that trafficking in counterfeit goods costs the United States approximately \$200 million annually. With each passing year, the United States loses millions of dollars in tax revenues to the sale of counterfeit goods. Further, counterfeit items manufactured overseas and distributed in the United States cost American workers tens of thousands of jobs. This is a problem that we can no longer ignore.

The trafficking in counterfeit goods and marks is not limited to those of the popular designer goods that we have all seen sold on corners of just about every major metropolitan city in the United States. Counterfeited products can range from children's toys to clothing to Christmas tree lights. More disturbing are the potentially hazardous counterfeit automobile parts, batteries, and electrical equipment that are being manufactured and placed into the stream of commerce by the thousands with each passing day.

This legislation closes a loophole in the current criminal trademark infringement statute and ensures that it is a crime not only to traffic in goods or services bearing counterfeit marks, but also in the counterfeit marks themselves. Further, this legislation ensures that counterfeit goods and marks seized in violation of this statute are properly disposed of and do not make their way back onto the street. I am pleased to introduce this piece of legislation with my colleagues and hope that it will receive the support that it is due.

Mr. LEAHY. Counterfeiting is a threat to America. It wrecks real harm on our economy, our workers, and our consumers. Today, Senator SPECTER and I introduce the "Stop Counterfeiting in Manufactured Goods Act," a tough bill that will give law enforcement improved tools to fight this form of theft. The bill is short and straightforward, but its impact should be profound and far-reaching.

It is all too easy to think of counterfeiting as a victimless crime, a means of buying sunglasses or a purse that would otherwise strain a monthly budget. The reality, however, is far different. According to the Federal Bureau of Investigation, counterfeiting costs the U.S. between \$200 billion and \$250 billion annually. In Vermont, companies like Burton Snowboards, Vermont Tubbs, SB Electronics, and Hubbardton Forge—all of which have cultivated their good names through pure hard work and creativity—have felt keenly the damage of intellectual property theft on their businesses. This is wrong. It is simply not fair to the businesses who innovate and to the people whose economic livelihoods depend on these companies.

The threat posed by counterfeiting is more than a matter of economics. Inferior products can threaten the safety of those who use them. When a driver taps a car's brake pedals there should be no uncertainty about whether the

brake linings are made of compressed grass, sawdust, or cardboard. Sick patients should not have to worry that they will ingest counterfeit prescription drugs and, at best, have no effect. The World Health Organization estimates that the market for counterfeit drugs is about \$32 billion each year. Knock-off parts have even been found in NATO helicopters. What's more, according to Interpol, there is an identifiable link between counterfeit goods and the financing of terrorist operations.

This is a global problem, and it demands global solutions. Earlier this year at a Judiciary Committee hearing on international piracy, the General Counsel for the United States Trade Representative reported that China continues to see piracy rates of about ninety percent in nearly all industries. Russia is a growing concern too, even as that country seeks membership in the World Trade Organization. Both countries were added to USTR's Priority Watch List this year. Such lists are useful, but they are meaningless without concrete steps by the countries singled out by USTR. We know that counterfeiting can be fought when a country treats it as a priority. China, for example, flexed its intellectual property enforcement muscle recently in protecting logos related to Beijing's 2008 Summer Olympic Games. In a Newsweek International article last January, one vendor who was fined for selling Olympic t-shirts noted that the crackdown was concerted: "They are," she says, "very serious."

I am very serious as well. Even as we work toward better international enforcement, there is much we can do, and much that we have done, to improve domestic law. In 1996, I worked with Senator HATCH to pass the Anticounterfeiting Consumer Protection Act, which strengthened our criminal and tariff codes and applied federal racketeering laws to counterfeiting. And earlier this year, Senator CORNYN and I introduced S. 1095, the Protecting American Goods and Services Act. That bill would criminalize possession of counterfeit goods with intent to traffic, expand the definition of "traffic," and criminalize the importing and exporting of counterfeit goods.

The bill that Senator SPECTER and I are introducing today also makes several improvements to the U.S. Code. The bill strengthens 18 U.S.C. 2318, the part of the criminal code that deals with counterfeit goods and services, to make it a crime to traffic in counterfeit labels or packaging, even when counterfeit labels or packaging are shipped separately from the goods to which they will ultimately be attached. Savvy counterfeiters have exploited this loophole to escape liability. This bill closes that loophole.

The bill will also make counterfeit labels and goods, and any equipment used in facilitating a crime under this part of the code, subject to forfeiture upon conviction. Any forfeited goods or

machinery would then be destroyed, and the convicted infringer would have to pay restitution to the lawful owner of the trademark. Finally, although the bill is tough, it is also fair. It states that nothing "shall entitle the United States to bring a cause of action under this section for the repackaging of genuine goods or services not intended to deceive or confuse." It is truly just the bad actors we want to punish.

Those who profit from another's innovation have proved their creativity only at escaping responsibility for their actions. As legislators it is important that we provide law enforcement with the tools needed to capture these thieves. It is a task to which Senator SPECTER and I are both committed. I would like to thank Senator BAYH, Senator BROWBACK, Senator CORNYN, Senator DEWINE, Senator FEINGOLD, Senator HATCH, Senator LEVIN, Senator REED, and Senator STABENOW for cosponsoring this important legislation.

By Mr. KERRY:

S. 1703. A bill to provide for the development and implementation of an emergency backup communications system; to the Committee on Homeland Security and Governmental Affairs.

Mr. KERRY. Mr. President, today I am introducing the Communications Security Act of 2005. The events of 9/11 uncovered manifest structural weaknesses in our communications system, which were then highlighted by the 9/11 Commission. At the time, public safety and emergency response officials were not able to communicate at a basic level. We have not taken adequate steps to fix that dangerous problem, and Hurricane Katrina has bluntly demonstrated that. Much of the communications system was knocked offline along the Gulf Coast. It was remarkable to watch as the television news crews had better luck communicating than our first responders. As the disaster unfolded, our first responders and emergency officials repeatedly cited communications failures as a major obstacle to the disaster response effort.

We need a redundant communications system that will work in times of emergency. Dramatic advances in technology and the availability of new spectrum as part of the DTV transition offer opportunities to address this problem. The Communications Security Act of 2005 requires the technical experts at the Department of Homeland Security and the Federal Communications Commission evaluate the feasibility and cost of deploying a back-up emergency communications system. The agencies will evaluate all reasonable options, including satellites, wireless and terrestrial-based systems. They will evaluate all available public and private resources that could provide such a system and submit a report to Congress detailing the findings. The

DHS is then authorized to request appropriations to implement the system. Congress would then be in position to put in place whatever programs and funding are needed to get the job done.

This proposal will not resolve all of our long-term needs in preparedness and interoperability, and I am pleased that many of my colleagues are working on the various pieces of this puzzle. However, in the interim, we must ensure that we can respond in emergency situations with an eye toward building a reliable, redundant system for the long term.

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. 1703

*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 "Communications Security Act of 2005".

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) The tragic events of September 11, 2001, placed an enormous strain on the communications network in New York City, New York and Washington, District of Columbia. Officials from both cities struggled to communicate and coordinate among the various emergency response teams dispatched to "Ground Zero" and the Pentagon. These events uncovered manifest structural weaknesses in the communications infrastructure of the United States.

(2) The 9/11 Commission Report states that our Nation remains largely unprepared to communicate effectively in the event of another attack or natural catastrophe.

(3) The massive communications failures associated with Hurricane Katrina illustrate the continuing inadequacies of our communications systems in times of crisis.

(4) Despite heroic efforts by public officials and communications industry personnel, the failure of our communications network to persevere in the face of a catastrophic hurricane severely hampered post-storm recovery efforts.

(5) A comprehensive effort must be undertaken to deal with the communications challenges faced by our Nation, including short-term and long-term steps that can be taken to improve the interoperable communications and emergency response capability within the United States.

(6) There is an immediate need for the development and deployment of an emergency back-up communications system to enhance the Nation's emergency response capabilities. Deployment of an emergency back-up communications system should be a priority of the United States.

(7) The deployment of such a system is a critical first step in enhancing the overall communications infrastructure. Other required improvements will need to be made in such areas as training, personnel, equipment, software, and services for local governments, and assistance with capital expenses. Supporting and enhancing ongoing efforts in this regard is an important goal.

**SEC. 3. EMERGENCY COMMUNICATIONS BACK-UP SYSTEM.**

Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), as amended by section 4, is further amended by adding at the end the following:

**“SEC. 317. EMERGENCY COMMUNICATIONS BACK-UP SYSTEM.**

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Communications Security Act of 2005, the Secretary, in conjunction with the Federal Communications Commission, shall evaluate the technical feasibility of creating a back-up emergency communications system that complements existing communications resources and takes into account next generation and advanced telecommunications technologies. The overriding objective for the evaluation shall be providing a framework for the development of a resilient interoperable communications system for emergency responders in an emergency. In conducting that evaluation, the Secretary shall evaluate all reasonable options, including satellites, wireless, and terrestrial-based communications systems and other alternative transport mechanisms that can be used in tandem with existing technologies.

“(b) COMPONENTS.—The back-up system shall include—

“(1) reliable means of emergency communications; and

“(2) if necessary, handsets, desktop communications devices, or other appropriate devices for each public safety entity.

“(c) FACTORS TO BE EVALUATED.—The evaluation under subsection (a) shall include—

“(1) a survey of all Federal agencies that use terrestrial or satellite technology for communications security and an evaluation of the feasibility of using existing systems for purposes creating such an emergency back-up medical facility public safety communications system;

“(2) the feasibility of using private satellite, wireless, or terrestrial networks for emergency communications;

“(3) the technical options, cost, and deployment methods of software, equipment, handsets or desktop communications devices for public safety entities in major urban areas, and nationwide; and

“(4) the feasibility and cost of necessary changes to the network operations center of terrestrial-based or satellite systems to enable the centers to serve as an emergency back-up communications systems.

“(d) REPORT.—Upon the completion of the evaluation under subsection (a), the Secretary shall submit a report to Congress that details the findings of the evaluation, including a full inventory of existing public and private resources most efficiently capable of providing emergency communications.

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

“(f) EXPEDITED FUNDING OPTION AND IMPLEMENTATION STRATEGY.—If, as a result of the evaluation conducted under subsection (a), the Secretary determines that the establishment of such a back-up system is feasible then the Secretary shall request appropriations for the deployment of such a back-up communications system not later than 90 days after submission of the report under subsection (d).”

(b) CLERICAL AMENDMENT.—The table of contents for the Homeland Security Act of 2002, as amended by section 4, is amended by inserting after the item relating to section 316 the following:

“Sec. 317. Emergency communications back-up system.”

By Mr. DORGAN:

S. 1704. A bill to prohibit the use of Federal funds for the taking of property by eminent domain for economic development; to the Committee on the Judiciary.

Mr. DORGAN. Earlier this year, the Supreme Court ruled in *Kelo vs. New London* that it was permissible for a government to use the power of eminent domain simply for the purpose of economic development.

I am greatly troubled by this case. I do not believe that the government can or should take property for a non-governmental purpose simply because it will generate additional tax revenue.

This court decision stands logic on its head—and it is a dangerous precedent as well.

I understand that there will be times when it is essential for the government to use eminent domain for the public good. For example, eminent domain is appropriate in order to build a flood control project to protect a city. Or to construct a highway or lay a water line.

But it makes no sense for the Court to allow a city—or a state or even the federal government—to use its power to allow private developers to acquire property under the takings clause. Once you start down that path, whose private property is safe? Could my home be condemned because a larger, more expensive house could be built on that lot? Can a local café be seized in order to provide space for a new, high-end French restaurant?

Government at all levels should be protecting and strengthening private property rights—not diminishing them.

So today I am introducing legislation to clarify and strengthen private property rights and ensure that government cannot abuse its power of eminent domain in the name of “economic development.”

First, my bill prevents the use of Federal funds for any economic development project that uses property that was subject of an eminent domain taking. This would cut off the spigot of Federal dollars to these questionable projects. Frankly, most economic development projects rely in some way on Federal dollars so this provision would have the practical effect of sharply curtailing this practice.

Second, my bill is explicit that traditional public use and public purpose projects are still permitted. I am not trying to end the use of eminent domain in order to protect public health and safety or in order to build important infrastructure in our communities. My bill makes this clear.

Finally, this bill clearly lays out that the funding prohibition includes takings of private property for the use of, or ownership of, another private individual or entity. One of the most troubling trends in this area is the use of eminent domain by a government that then turns the property over to a private person or group for their private gain.

This issue also demands attention at the state level. I commend the efforts of a number of leaders in North Dakota to make changes to our state constitution in a way that will protect private property owners.

Our former state attorney general, Heidi Heitkamp, is spearheading an effort to prevent the use of eminent domain at the State level for economic development purposes regardless of whether Federal funds are used. This is an important initiative and I fully support it. It is an important complement to the bill I am introducing today. In fact, much of the language in my bill reflects the language in the initiated measure in North Dakota.

Strong private property rights are a fundamental part of our country’s heritage and I believe that we should take steps to protect those rights. This bill will afford all Americans better protection against inappropriate uses of eminent domain and seizure of property.

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. 1704

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

**SECTION 1. PROHIBITION ON USE OF FEDERAL FUNDS IN ECONOMIC DEVELOPMENT RELATING TO PROPERTY TAKEN BY EMINENT DOMAIN.**

(a) SHORT TITLE.—This Act may be cited as the “Private Property Protection Act of 2005”.

(b) PROHIBITION.—

(1) IN GENERAL.—No Federal funds may be used relating to a property that is the subject of a taking by eminent domain.

(2) EXCEPTION.—Paragraph (1) shall not apply if the property is being used for public use or a public purpose.

(c) PUBLIC USE OR PUBLIC PURPOSE.—Economic development, including an increase in the tax base, tax revenues, or employment, may not be the primary basis for establishing a public use or public purpose under subsection (b).

(d) TAKINGS FOR USE BY PRIVATE INDIVIDUAL OR ENTITY.—Subsection (b) shall include takings of private property for the use of, or ownership by, any private individual or entity.

Ms. LANDRIEU:

S.J. Res. 24. A joint resolution proposing an amendment to the Constitution of the United States relative to the reference to God in the Pledge of Allegiance and on United States currency; to the Committee on the Judiciary.

Ms. LANDRIEU. Mr. President, a Federal District Court judge in the Ninth Circuit has once again declared that the reference to God in the Pledge of Allegiance is unconstitutional. Just a couple of years ago, the Ninth Circuit Court of Appeals reached a similar conclusion in the case of *Newdow v. U.S. Congress*. I am now, as I was then, surprised and disappointed with this new ruling by the District Court.

Today I am reintroducing a proposed constitutional amendment that simply says that references to God in the Pledge of Allegiance and on our currency do not affect an establishment of religion under the First Amendment. References to God are found in every

one of our founding documents from the Declaration of Independence to the Constitution, as well as in the Pledge of Allegiance. The phrase "In God We Trust" appears on all of our currency and on many public buildings. Every day, we begin Senate sessions with a prayer and the Pledge. I firmly believe that the framers of the Constitution and the First Amendment did not want to ban all references to God from public discourse when they wrote the Establishment Clause. What they wanted to prevent was the establishment of an official national religion and to keep the government from getting intimately involved in the organization of one religion over another.

These references to God are ceremonial. Certainly, they do have meaning, but individuals are free to put whatever meaning on the word they choose. Indeed, I fully respect and support the rights of people not to participate in the Pledge or in ceremonial prayer and my amendment will not coerce anyone to recite the Pledge of Allegiance in public or in school.

I had hoped that the Supreme Court, which took the *Newdow* case up on appeal, would have settled this question once and for all. It did not. The Court dismissed the case saying Mr. *Newdow* lacked standing. The Supreme Court may have the opportunity to hear arguments in this case later on. If the Supreme Court should decide not to hear the case or to overrule the lower court, then Congress should restore the appropriate balance between church and state that I believe was the intent of the framers.

I urge my colleagues to support this joint resolution and I ask unanimous consent that the text of the resolution be printed in the RECORD.

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

S. J. RES. 24

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within 7 years after the date of its submission by the Congress:*

“ARTICLE—

“SECTION 1. A reference to God in the Pledge of Allegiance or on United States currency shall not be construed as affecting the establishment of religion under the first article of amendment of this Constitution.

“SECTION 2. Congress shall have the power to enforce this article by appropriate legislation.”.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 237—EX-PRESSING THE SENSE OF THE SENATE ON REACHING AN AGREEMENT ON THE FUTURE STATUS OF KOSOVO

Mr. VOINOVICH (for himself, Mr. LUGAR, and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 237

Whereas, on June 10, 1999, the United Nations Security Council adopted Resolution 1244 which authorized the Secretary-General of the United Nations to establish an interim administration for Kosovo to assume the supreme legal authority in Kosovo with the task of promoting "substantial autonomy and self-governance" in Kosovo and facilitating a political process to determine the future status of Kosovo;

Whereas, on December 10, 2003, the United Nations interim administration, known as the United Nations Interim Administration Mission in Kosovo, presented the Standards for Kosovo document which set out the requirements to be met to advance stability in Kosovo;

Whereas the Standards for Kosovo require the establishment of functioning democratic institutions in Kosovo, including providing for the holding of elections, establishing the Provisional Institutions of Self-Government, and establishing media and civil society, the establishment of rule of law to ensure equal access to justice and to implement mechanisms to suppress economic and financial crime, and the establishment of freedom of movement in Kosovo, including the free use of language;

Whereas the Standards for Kosovo further require sustainable returns and the rights of communities and their members, improvements in economic and financial institutions, including the prevention of money laundering and the establishment of an attractive environment for investors, the establishment of property rights, including the preservation of cultural heritage, and the development of a sustained dialogue, including a Pristina-Belgrade dialogue and a regional dialogue;

Whereas the ethnic violence that occurred in Kosovo from March 17, 2004 through March 19, 2004, represented a severe setback to the progress the people of Kosovo achieved in implementing the Standards for Kosovo and resulted in 20 deaths and damage to or destruction of approximately 900 homes and 30 Serbian Orthodox churches and other religious sites;

Whereas the bomb attacks against the people and international institutions in Kosovo that occurred from July 2, 2005 through July 4, 2005, were unacceptable events that work counter to the interests and efforts of the majority of the people of Kosovo and signal that more work must be done to promote the implementation of the Standards for Kosovo;

Whereas the status of Kosovo, which is neither stable nor sustainable, is a critical issue affecting the aspirations of Southeast Europe for stability, peace, and eventual membership in the European Union;

Whereas the authorities and institutions of Kosovo must be empowered to act independently to achieve the Standards for Kosovo so that such authorities and institutions may assume responsibility for any progress or setbacks;

Whereas 2005 must be a year of decision for representatives of Kosovo, Serbia and Monte-

negro, and the United Nations to move forward on the status of Kosovo;

Whereas the basic values of multi-ethnicity, democracy, and market-orientation must remain at the heart of any effort to resolve the question of the future status of Kosovo; and

Whereas the support of all of the people of Kosovo is required to achieve a successful outcome that addresses those basic values: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the unresolved status of Kosovo is neither sustainable nor beneficial to the progress toward stability and peace in Southeast Europe and its integration with Europe;

(2) the leaders of Kosovo and Serbia and Montenegro and the representatives of the United Nations should work toward an agreement on the future status of Kosovo and a plan for transformation in Kosovo;

(3) such agreement and plan should—  
(A) address the claims and satisfy the key concerns of the people of Kosovo and the people of Serbia and Montenegro;

(B) seek compromises from both Kosovo and Serbia and Montenegro to reach an agreement;

(C) promote the integration of Southeast Europe with the European Union and the North Atlantic Treaty Organization;

(D) reinforce efforts to encourage full cooperation by the governments of Kosovo and of Serbia and Montenegro with the International Crimes Tribunal for the Former Yugoslavia;

(E) promote stability in the region and take into consideration the stability of democracy in Kosovo and in Serbia and Montenegro;

(F) promote the active participation of Serbians in Kosovo in elections and in the government of Kosovo; and

(G) require the fulfillment of the Standards for Kosovo, the requirements that the United Nations Interim Administration Mission in Kosovo established to advance stability in Kosovo, in accordance with prior commitments and in support of the initiation of discussions on status with particular emphasis on the problem of human rights in minority communities;

(4) the anticipated discussions of the long-term status of Kosovo should result in a plan for implementing the Standards for Kosovo, particularly with regard to minority protections, return of property, and the development of rule of law as it relates to the improvement of protection of minorities, the return of internally displaced persons, the return of property, and the prosecution of human rights violations; and

(5) Kosovo, Serbia and Montenegro, and the United Nations, during the negotiations related to the long-term status of Kosovo, should require—

(A) increased monitoring and reporting of the progress on the implementation of the Standards for Kosovo and any incidents of human rights violations, and should broaden the involvement of minorities and community-level representatives in monitoring, reporting, and publicizing that progress;

(B) that the authorities and institutions of Kosovo be given greater authority and independence in fulfilling the Standards for Kosovo, including assuming the responsibility for any setbacks and progress and acquiring experience in assuming greater autonomy; and

(C) a broad public awareness campaign to raise awareness of both the plan to resolve the question of the status of Kosovo and the requirements for the transition of Kosovo to a permanent status, including the importance of the progress in implementing the