1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1313

At the request of Mr. CORNYN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1313, a bill to protect homes, small businesses, and other private property rights, by limiting the power of eminent domain.

S. 1321

At the request of Mr. SANTORUM, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1321, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications.

S. 1358

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1358, a bill to protect scientific integrity in Federal research and policymaking.

S. 1620

At the request of Mr. CORZINE, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 1620, a bill to provide the nonimmigrant spouses and children of nonimmigrant aliens who perished in the September 11, 2001, terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence, and for other purposes.

S. 1645

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1645, a bill to establish a first responder interoperable communications grant program.

S. 1685

At the request of Mr. OBAMA, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1685, a bill to ensure the evacuation of individuals with special needs in times of emergency.

S. 1691

At the request of Mr. CRAIG, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 1691, a bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under State law.

S. 1735

At the request of Ms. CANTWELL, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mrs. MURRAY) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 1735, a bill to improve the Federal Trade Commissions's ability to protect consumers from price-gouging during energy emergencies, and for other purposes.

S. CON. RES. 46

At the request of Mr. BROWNBACK, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. Con. Res. 46, a concurrent resolution expressing the sense of the Congress that the Russian Federation should fully protect the freedoms of all religious communities without distinction, whether registered and unregistered, as stipulated by the Russian Constitution and international standards.

S. CON. RES. 53

At the request of Mr. OBAMA, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 53, a concurrent resolution expressing the sense of Congress that any effort to impose photo identification requirements for voting should be rejected.

AMENDMENT NO. 1741

At the request of Mr. DEWINE, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Kansas (Mr. BROWNBACK), the Senator from Minnesota (Mr. COLEMAN), the Senator from Wisconsin (Mr. KOHL) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of amendment No. 1741 proposed to H.R. 2744, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1754

At the request of Mr. SALAZAR, the names of the Senator from California (Mrs. BOXER) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 1754 proposed to H.R. 2744, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1760

At the request of Mr. DURBIN, the names of the Senator from Illinois (Mr. OBAMA) and the Senator from Missouri (Mr. BOND) were added as cosponsors of amendment No. 1760 intended to be proposed to H.R. 2744, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1761

At the request of Ms. STABENOW, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of amendment No. 1761 intended to be proposed to H.R. 2744, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1764

At the request of Mr. CRAIG, the names of the Senator from California (Mrs. BOXER), the Senator from Michigan (Ms. STABENOW), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Idaho (Mr. CRAPO), the Senator from Oregon (Mr. SMITH), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of amendment No. 1764 intended to be proposed to H.R. 2744, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1768

At the request of Mr. SPECTER, the names of the Senator from New York (Mrs. CLINTON), the Senator from New York (Mr. SCHUMER) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of amendment No. 1768 intended to be proposed to H.R. 2744, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 1739. A bill to amend the material witness statute to strengthen procedural safeguards, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, under the Federal material witness statute our government is authorized to arrest a witness in order to secure his testimony in a criminal proceeding. In order to obtain a material witness warrant, the government must establish that the witness has information that is material to a criminal proceeding, and that it may become impracticable to secure the witness's presence at the proceeding by a subpoena. Once arrested, a material witness may be detained for a reasonable period, until his testimony can be secured by deposition or appearance in court.

The material witness law was intended to ensure the appearance of witnesses in those rare cases where they might otherwise flee to avoid testifying in a criminal proceeding. This authority is an important tool for our government's law enforcement duties, but it must be exercised responsibly. As the Court of Appeals for the Second Circuit noted in 2003, in the case of United States v. Awadallah, ''It would be improper for the government to use [the material witness statute] for other ends, such as the detention of persons suspected of criminal activity for which probable cause has not yet been established.'' Since September 11, 2001, however, that is exactly what the government has been doing. Indeed, senior Administration officials, including our current Attorney General, have admitted that the government routinely uses material witness warrants to detain suspects in the so-called war on terror.

A report released this summer by Human Rights Watch and the American Civil Liberties Union identifies 70 men, including more than a dozen citizens, whom the Department of Justice

arrested as material witnesses in connection with its terrorism investigations. Many were never brought before a court or grand jury to testify for the simple reason that they were viewed not as witnesses, but as suspects. The evidence against these suspects was often flimsy at best, and would never have sufficed for criminal arrest and pre-trial detention. This twisting of a narrow law designed to secure testimony into a broad preventive detention authority has resulted in some notorious abuses.

Just days after 9/11, the FBI arrested eight Egyptian-born men in Evansville, IN—one a naturalized American citizen—as material witnesses, based on a bogus tip that they planned to fly a plane into the Sears Tower in Chicago. The men were held for more than a week in solitary confinement before being released. Many months later, the FBI issued a rare public apology to these men. That apology, while necessary, could not repair the damage that had been done to them and their families in the form of lost business, tainted reputations, and the accusing stares of their friends and neighbors.

The case of Abdallah Higazy further highlights the danger that can occur when this authority is abused. Shortly after 9/11, the 30-year-old Egyptian graduate student with a valid visa, was picked up after a security guard at a hotel located across the street from Ground Zero claimed to have found an aviation radio in the room where Higazy had stayed on 9/11. Higazy was held for more than a month in solitary confinement until he ultimately confessed that the radio was his. Higazy was then charged with lying to the FBI for initially denying possession of the radio. These charges were dropped after the true owner of the radio, an American pilot, went to the hotel to claim it.

In another, higher profile case in May 2004, Portland attorney Brandon Mayfield was arrested as a material witness in connection with the Madrid train bombing. An email sent from the Portland FBI office to the Los Angeles FBI office the day before Mayfield's arrest refers to him as a ''Moslem convert'' and notes as a ''problem'' that there was not enough evidence to arrest him for a crime. After spending two weeks in prison, Mayfield was released and the FBI was expressing regret about the erroneous fingerprint match that led to his arrest.

These and other examples of post–9/11 misuse of the material witness statute are documented in the HRW/ACLU report. As the report shows, such misuse does more than just circumvent the requirement of probable cause for a criminal arrest. Suspects arrested as material witnesses are denied the basic protections guaranteed to criminal defendants, including the right to view any exculpatory evidence and to be able to challenge the basis for their arrest and incarceration. The report concludes that the misuse of the material witness law ''threatens U.S. citizens and non-citizens alike because it reflects a lowering of the standards designed to protect everyone from arbitrary and unreasonable arrest and detention.''

The bill I introduce today will ensure that the material witness law is used only for the narrow purpose that Congress originally intended, to obtain testimony, and not to hold criminal suspects without charge when probable cause is lacking.

First, the bill raises the standard that the government must meet to obtain a material witness warrant. Under current law, a judge may order the arrest of a material witness if there is probable cause to believe that securing his presence by subpoena may become ''impracticable.'' Under the bill, there must be probable cause to believe that the witness has been served with a subpoena and failed or refused to appear as required, or clear and convincing evidence that the service of a subpoena is likely to result in the person fleeing or cannot adequately secure the appearance of the person as required.

Second, the bill imports several due process safeguards from the Federal Rules of Criminal Procedure relating to the arrest and arraignment of criminal defendants. Among other things, the bill requires that a material witness warrant specify that the testimony of the witness is sought in a criminal case or grand jury proceeding, and command that the witness be arrested and brought to court without unnecessary delay. The warrant must also inform the witness of his right to retain counselor or request that one be appointed. The right to counsel is already guaranteed to material witnesses under the Criminal Justice Act, 18 U.S.C. 3006A(a)(1)(g), and protects the witness from erroneous, unnecessary, and prolonged incarceration.

The bill further provides that, upon arresting a material witness, the government must provide him with a copy of the warrant or inform him of the warrant's existence and purpose. A material witness must be brought before a judge ''without unnecessary delay''—a term that has been strictly interpreted when applied to the criminally accused. The initial appearance must be in the district of arrest or an adjacent district. At the initial appearance, the judge must inform the witness of the basis for his arrest and of his right to counsel. The judge must also allow the witness a reasonable opportunity to consult with counsel. The judge must then determine whether the witness should be released or detained pending the taking of his testimony.

Third, the bill establishes clear procedures for material witness detention hearings. Current law provides that material witnesses shall be treated in accordance with 18 U.S.C. 3142, which governs the release or detention of defendants pending trial. Section 3142, however, contains many factors that are not applicable to material witnesses. For example, courts have held that a material witness may not be detained on the basis of dangerousness. (See Awadallah, 349 F.3d at 63 n.15.) The bill clarifies that in detention hearings for material witnesses, flight risk is the only relevant factor. A court shall order a material witness detained only if no condition or combination of conditions will reasonably assure the appearance of the witness as required. As under current law, no witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition. In determining whether a material witness should be released or detained, the court shall take into account the available information concerning the history and characteristics of the witness, and may also consider challenges to the basis of the warrant.

Fourth, the bill establishes the ''clear and convincing evidence'' standard used in other civil detention contexts for material witness detentions. Few courts have directly examined what standard of proof should be required of the government to demonstrate that no conditions of release can reasonably assure a witness's appearance. While the lower ''preponderance of the evidence'' standard may suffice for pre-trial detention of defendants who pose a risk of flight, in the case of defendants there has also been a finding of probable cause to believe the person committed a crime. In the case of a witness, where there is no probable cause to believe the person committed a crime, the usual grounds for fearing flight—the defendant's aversion to risking a guilty verdict and attendant sentencing—are not present.

Fifth, the bill imposes reasonable but firm time limits on the detention of material witnesses. Current law sets no firm limit on how long a witness may be incarcerated before being presented in a criminal proceeding or released. This has resulted, according to the recent report, in many witnesses enduring imprisonment for two or more months, and in one case for more than a year. Under my bill, a material witness may initially be held for not more than five days, or until his testimony can adequately be secured, whichever is earlier. That period may be extended for additional periods of up to five days, upon a showing of good cause for why the testimony could not adequately be secured during the previous five-day period. The total period of detention may not exceed 10 days for a grand jury witness, or 30 days for a trial witness, and in no case may a witness be held any longer than necessary to secure his testimony.

Sixth, in recognition of the fact that material witnesses are not charged with any offense, the bill requires that they be held in a corrections facility that is separate, to the extent practicable, from persons charged with or convicted of a criminal offense, and under the least restrictive conditions possible.

Finally, to facilitate congressional oversight, the bill requires the Justice Department to report annually on the use of the material witness law. Since 9/11, the Department has withheld information relating to material witnesses on the theory—in my view, a flawed theory—that such information is covered by the grand jury secrecy rule. It is hard to imagine how the release of generalized data, such as the aggregate number of people detained as material witnesses, could damage any reputational interest or any of the other interests protected by Rule 6(e).

The recent, detailed report on post–9/11 uses of the material witness statute leaves no doubt that the law has been bent out of shape, with real consequences for citizens and non-citizens alike. My bill will restore the law to its original purpose and prevent future abuses. I urge its speedy passage.

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

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

S. 1739

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

SECTION 1. RELEASE OR DETENTION OF A MATERIAL WITNESS.

(a) AMENDMENTS TO TITLE 18.—Section 3144 of title 18, United States Code, is amended to read as follows:

"§ 3144. Release or detention of a material witness

''(a) ARREST OF MATERIAL WITNESS.—

''(1) IN GENERAL.—A judicial officer may order the arrest of a person as a material witness, if it appears from an affidavit filed by a party in a criminal case before a court of the United States, or by an attorney for the Government in a matter occurring before a Federal grand jury, that there is probable cause to believe that—

''(A) the testimony of such person is material in such case or matter; and

''(B) the person has been served with a summons or subpoena and failed or refused to appear as required.

''(2) EXCEPTION.—A judicial officer may waive the summons or subpoena requirement described in paragraph (1)(B), if the judicial officer finds by clear and convincing evidence that the service of a summons or subpoena—

''(A) is likely to result in the person fleeing; or

''(B) cannot adequately secure the appearance of the person as required.

''(b) WARRANT FOR MATERIAL WITNESS.—

''(1) REQUIREMENTS.—A warrant issued under subsection (a) shall—

''(A) contain the name of the material witness or, if the name of such witness is unknown, a name or description by which the witness can be identified with reasonable certainty;

''(B) specify that the testimony of the witness is sought in a criminal case or grand jury proceeding;

''(C) command that the witness be arrested and brought without unnecessary delay before a judicial officer;

''(D) inform the witness of the witness's right to retain counsel or to request that counsel be appointed if the witness cannot obtain counsel; and

''(E) be signed by a judicial officer.

''(2) EXECUTION OF WARRANT.—

''(A) ARREST OF WITNESS.—A warrant issued under subsection (a) shall be executed by arresting the material witness.

''(B) WARRANT TO BE PROVIDED TO WITNESS.—

''(i) IN GENERAL.—Upon arrest, an officer possessing the warrant shall show such warrant to the material witness.

''(ii) WARRANT NOT IN POSSESSION OF ARRESTING OFFICER.—If an officer does not possess the warrant at the time of arrest of a material witness, an officer—

''(I) shall inform the witness of the existence and purpose of the warrant; and

''(II) at the request of the witness, shall provide the warrant to the witness as soon as possible.

''(3) RETURN OF WARRANT.—

''(A) AFTER EXECUTION.—After executing a warrant issued under subsection (a), an officer shall return the warrant to the judicial officer before whom the material witness is brought in accordance with subsection (c).

''(B) UNEXECUTED WARRANT.—At the request of an attorney for the United States Government, an unexecuted warrant shall be brought back to and canceled by a judicial officer.

''(c) INITIAL APPEARANCE.—

''(1) APPEARANCE UPON ARREST.—A material witness arrested pursuant to a warrant issued under subsection (a) shall be brought without unnecessary delay before a judicial officer.

''(2) PLACE OF INITIAL APPEARANCE.—The initial appearance of a material witness arrested pursuant to a warrant issued under subsection (a) shall be—

''(A) in the district of arrest; or

''(B) in an adjacent district if—

''(i) the appearance can occur more promptly there; or

''(ii) the warrant was issued there and the initial appearance will occur on the day of the arrest.

''(3) PROCEDURES.—At the initial appearance described in paragraph (2), a judicial officer shall—

''(A) inform a material witness of—

''(i) the warrant against the witness, and the application and affidavit filed in support of the warrant; and

''(ii) the witness's right to retain counsel or to request that counsel be appointed if the witness cannot obtain counsel;

''(B) allow the witness a reasonable opportunity to consult with counsel;

''(C) release or detain the witness as provided by subsection (d); and

''(D) if the initial appearance occurs in a district other than where the warrant issued, transfer the witness to such district, provided that the judicial officer finds that the witness is the same person named in the warrant.

''(d) RELEASE OR DETENTION.—

''(1) IN GENERAL.—Upon the appearance before a judicial officer of a material witness arrested pursuant to a warrant issued under subsection (a), the judicial officer shall order the release or detention of such witness.

''(2) RELEASE.—

''(A) IN GENERAL.—A judicial officer shall order the release of a material witness arrested pursuant to a warrant issued under subsection (a) on personal recognizance or upon execution of an unsecured appearance bond under section 3142(b), or on a condition or combination of conditions under section 3142(c), unless the judicial officer determines by clear and convincing evidence that such release will not reasonably assure the appearance of the witness as required.

''(B) TESTIMONY SECURED BY DEPOSITION.—No material witness may be detained because of the inability of the witness to comply with any condition of release if the testimony of such witness can adequately be secured by deposition.

''(3) DETENTION.—

''(A) NO REASONABLE ASSURANCE OF APPEARANCE.—If, after a hearing pursuant to the provisions of section 3142(f)(2), a judicial officer finds by clear and convincing evidence that no condition or combination of conditions will reasonably assure the appearance of a material witness as required by this section, such judicial officer may order that the witness be detained for a period not to exceed 5 days, or until the testimony of the witness can adequately be secured by deposition or by appearance before the court or grand jury, whichever is earlier.

''(B) EXTENSION OF DETENTION.—

''(i) IN GENERAL.—Subject to clause (ii), upon the motion of a party (or an attorney for the United States Government in a matter occurring before a Federal grand jury), the period of detention under subparagraph (A) may be extended for additional periods of up to 5 days, or until the testimony of a material witness can adequately be secured by deposition or by appearance before the court or grand jury, whichever is earlier.

''(ii) LIMIT.—The total period of detention under this subparagraph may not exceed—

''(I) 30 days, where the testimony of the witness is sought in a criminal case; or

''(II) 10 days, where the testimony of the witness is sought in a grand jury proceeding.

''(C) GOOD CAUSE REQUIRED.—A motion under subparagraph (B) shall demonstrate good cause for why the testimony of a material witness could not adequately be secured by deposition or by appearance before the court or grand jury during the previous 5-day period.

''(4) FACTORS TO BE CONSIDERED.—A judicial officer, in determining whether a material witness should be released or detained—

''(A) shall take into account the available information concerning the history and characteristics of the witness, including the information described in section 3142(g)(3)(A); and

''(B) may consider challenges to the basis of the warrant.

''(5) CONTENTS OF RELEASE ORDER.—A release order issued under paragraph (2) shall comply with the requirements of paragraphs (1) and (2)(B) of section 3142(h).

''(6) CONTENTS OF DETENTION ORDER.—A detention order issued under paragraph (3) shall comply with the requirements of section 3142(i), provided that a judicial officer shall direct that a material witness be held—

''(A) in a facility separate and apart, to the extent practicable, from persons charged with or convicted of a criminal offense; and

''(B) under the least restrictive conditions possible.

''(e) REPORT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Attorney General shall provide to the Committees on the Judiciary of the Senate and the House of Representatives an annual report regarding the use of this section by the United States Government during the preceding 1-year period.

''(2) CONTENT OF REPORT.—A report required under paragraph (1) shall include—

''(A) the number of warrants sought under subsection (a), and the number either granted or denied;

''(B) the number of material witnesses arrested pursuant to a warrant issued under subsection (a) whose testimony was not secured by deposition or by appearance before the court or grand jury, and the reasons therefore; and

''(C) the average number of days that material witnesses arrested pursuant to a warrant issued under subsection (a) were detained.''.

(b) AMENDMENT TO FEDERAL RULES OF CIVIL PROCEDURE.—Rule 46(h) of the Federal Rules of Criminal Procedure is amended to read as follows:

''(h) SUPERVISING DETENTION PENDING TRIAL.—To eliminate unnecessary detention, the court must supervise the detention within the district of any defendants awaiting trial and of any persons held as material witnesses.''.

By Mr. CRAPO (for himself, Mr. JOHNSON, and Mr. BUNNING):

S. 1740. A bill to amend the Internal Revenue Code of 1986 to allow individuals to defer recognition of reinvested capital gains distributions from regulated investment companies; to the Committee on Finance.

Mr. CRAPO. Mr. President, I rise today to introduce, along with my colleagues Tim Johnson of South Dakota and Jim Bunning of Kentucky, an important bill that will allow Americans to save more for the long term and will better prepare them for a secure retirement. The Generating Retirement Ownership Through Long-Term Holding GROWTH, Act has substantial and growing bipartisan support in the House, and Senator JOHNSON and I are proud to introduce this bipartisan legislation that provides Americans a better tool to grow their long-term retirement savings.

The GROWTH Act would allow investors in mutual funds to keep more retirement savings invested longer and growing longer by deferring taxation of automatically reinvested capital gains until fund shares are sold, rather than allowing those long-term gains—which generate no current income or cash in hand—to be taxed every year.

To understand how beneficial this bill would be, it is important to understand the role of mutual funds in long-term retirement savings. Among households owning mutual funds, 92 percent are investing for retirement, with more than 70 percent saying their primary purpose in investing in funds is to prepare for retirement. Many of today's workers do not yet have in place the retirement savings supplement to Social Security that will prepare them for the future. In fact, almost half of American workers—nearly 71 million of 151 million workers—are not offered any form of pension or retirement savings plan at work.

Meanwhile, the number of years spent in retirement is growing and the costs individuals can expect to bear in retirement are growing, too. The Employee Benefit Research Institute estimates that an individual retiring at age 65 in 2014 will need $285,000 just to cover health coverage premiums and expenses. Individual savings efforts also face significant obstacles. Those not covered by an employer's retirement plan, for example, can set aside a deductible IRA contribution of only $4,000 this year—$4,500 if they are age 50 or older.

Mutual funds are a hugely important part of American workers' preparation for retirement, both through their employers' retirement plans and on their own. Mutual funds now make up half of the $3.2 trillion held by American workers through 401(k) plans and other similar job-based savings programs. About 34 million American households hold mutual funds through their defined contribution plans. More than 30 million American households are saving through taxable mutual fund accounts, either as supplements to their employers' plans or because they do not have such plans.

The GROWTH Act is also a good idea because it remedies an unfairness in the tax code that can make saving difficult for many Americans. Mutual fund investors who are struggling to save for retirement should not have to pay taxes on ''profits'' they have not realized. If they don't have money in hand, it makes no sense for them to have to pay taxes. The GROWTH Act would defer taxes until the mutual fund shares are sold and the investor has actual funds to pay the taxes.

The GROWTH Act would be a valuable contributor to retirement savings efforts. Mutual fund savers who automatically reinvest are doing what policymakers want to see. They are holding for the long term, contributing to national savings, and building up their own retirement nest egg. These Americans should be encouraged to save—not discouraged through a tax on automatic reinvestments. The GROWTH Act is a step that will show immediate results, a step that will help tens of millions of American savers and ''should-be savers'' over the course of their working lives, and a step that with time can make a real difference in the retirement readiness of American families.

I urge my colleagues to join Senator JOHNSON and me in supporting the GROWTH Act. 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. 1740

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 ''Generate Retirement Ownership Through Long-Term Holding Act of 2005''.

SEC. 2. DEFERRAL OF REINVESTED CAPITAL GAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to common nontaxable exchanges) is amended by inserting after section 1045 the following new section:

''SEC. 1046. REINVESTED CAPITAL GAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

''(a) NONRECOGNITION OF GAIN.—In the case of an individual, no gain shall be recognized on the receipt of a capital gain dividend distributed by a regulated investment company to which part I of subchapter M applies if such capital gain dividend is automatically reinvested in additional shares of the company pursuant to a dividend reinvestment plan.

''(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CAPITAL GAIN DIVIDEND.—The term 'capital gain dividend' has the meaning given to such term by section 852(b)(3)(C).

''(2) RECOGNITION OF DEFERRED CAPITAL GAIN DIVIDENDS.—

''(A) IN GENERAL.—Gain treated as unrecognized in accordance with subsection (a) shall be recognized in accordance with subparagraph (B)—

''(i) upon a subsequent sale or redemption by such individual of stock in the distributing company, or

''(ii) upon the death of the individual.

''(B) GAIN RECOGNITION.—

''(i) IN GENERAL.—Upon a sale or redemption described in subparagraph (A), the taxpayer shall recognize that portion of total gain treated as unrecognized in accordance with subsection (a) (and not previously recognized pursuant to this subparagraph) that is equivalent to the portion of the taxpayer's total shares in the distributing company that are sold or redeemed.

''(ii) DEATH OF INDIVIDUAL.—Except as provided by regulations, any portion of such total gain not recognized under clause (i) prior to the taxpayer's death shall be recognized upon the death of the taxpayer and included in the taxpayer's gross income for the taxable year ending on the date of the taxpayer's death.

''(3) HOLDING PERIOD.—

''(A) GENERAL RULE.—The taxpayer's holding period in shares acquired through reinvestment of a capital gain dividend to which subsection (a) applies shall be determined by treating the shareholder as having held such shares for one year and a day as of the date such shares are acquired.

''(B) SPECIAL RULE FOR DISTRIBUTIONS OF QUALIFIED 5-YEAR GAINS.—In the case of a distribution of a capital gain dividend (or portion thereof) in a taxable year beginning after December 31, 2008, and properly treated as qualified 5-year gain (within the meaning of section 1(h), as in effect after such date), subparagraph (A) shall apply by substituting '5 years and a day' for 'one year and a day'.

''(c) SECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—This section shall not apply to—

''(1) an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins, or

''(2) an estate or trust.

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 852(b)(3)(B) of such Code is amended by adding at the end the following new sentence: ''For rules regarding nonrecognition of gain with respect to reinvested capital gain dividends received by individuals, see section 1046.''.

(2) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1045 the following new item:

''Sec. 1046. Reinvested capital gain dividends of regulated investment companies.''.

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

By Mr. SMITH:

S. 1743. A bill to authorize the Federal Trade Commission to investigate and assess penalties for price gouging with respect to oil and gas products; to

the Committee on Commerce, Science, and Transportation.

Mr. SMITH. Mr. President, I rise today to introduce the Post-Disaster Consumer Protection Act of 2005. This bill is designed to prohibit price gouging of oil or gas products in the immediate aftermath of a declared disaster.

Hurricane Katrina had a devastating affect on the major oil and natural gas producing region of our Nation. This natural disaster has exposed our Nation's vulnerability to even short-term disruptions anywhere in the supply chain. Oil production curtailments, refinery shutdowns or pipeline disruptions can all cause price spikes in gasoline, diesel and aviation fuel.

Directly following Hurricane Katrina, extreme price volatility of gasoline throughout the United States led to accusations of price gouging. Reports were made of individual retailers charging as much as $5.87 a gallon for gas. Even in my State of Oregon, which is less reliant on Gulf of Mexico production, prices spiked in the immediate aftermath of the hurricane.

This bill declares that for the 30 days following the President's declaration of a disaster, it will be unlawful to engage in price gouging of oil or gas products for sale in the affected area, or of oil and gas products produced in the affected area for sale in interstate commerce.

In addition, this bill authorizes the Federal Trade Commission to determine what represents a gross disparity in pricing and to prevent violations under this act using its authorities under the Federal Trade Commission Act. Those authorities include seeking civil penalties of $11,000 per violation; assessing fines or repayment of illegal gains; freezing assets; and seeking preliminary injunctions, cease and desist orders or temporary restraining orders.

Drastic increases in oil and gas products have a negative impact on consumers and businesses. That is why we must have a system in place that discourages price gouging in the wake of a disaster, and allows enough time for markets to return to normal.

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. 1743

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 ''Post-Disaster Consumer Protection Act of 2005''.

SEC. 2. PRICE GOUGING PROHIBITION FOLLOWING MAJOR DISASTERS.

(a) DEFINITIONS.—In this section:

(1) AFFECTED AREA.—The term ''affected area'' means an area affected by a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(3) OIL OR GAS PRODUCTS.—The term ''oil or gas products'' means oil, gasoline, diesel, aviation fuel, natural gas, or home heating oil.

(4) PRICE GOUGING.—The term ''price gouging'' means the charging of an unconscionably excessive price by a supplier of an oil or gas product.

(5) SUPPLIER.—The term ''supplier'' includes a seller, reseller, wholesaler, or distributor of an oil or gas product.

(6) UNCONSCIONABLY EXCESSIVE PRICE.—The term ''unconscionably excessive price'' means a price charged—

(A)(i) for an oil or gas product sold in an affected area that represents a gross disparity, as determined by the Commission, between the price charged by a supplier for that product after a major disaster is declared and the average price charged for that product by that supplier in the affected area during the 30-day period immediately before the President declares the existence of the major disaster; or

(ii) for an oil or gas product produced in the affected area for sale in interstate commerce that represents a gross disparity, as determined by the Commission, between the price charged by a supplier for that product after a major disaster is declared and the average price charged for that product by that supplier during the 30-day period immediately before the President declares the existence of the major disaster;

(B) that is not attributable to increased wholesale or operational costs incurred by the supplier in connection with the provision of the oil or gas product or to international market trends; and

(C) that is not attributable to a loss of production or loss of pipeline transmission capability.

(b) PRICE GOUGING INVOLVING DISASTER VICTIMS.—

(1) OFFENSE.—During the 30-day period following the date on which a major disaster is declared by the President, it shall be unlawful for a supplier to sell, or to offer to sell, any oil or gas product at an unconscionably excessive price as described in subsection (a)(6).

(c) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—

(1) IN GENERAL.—The provisions of this Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). A violation of any provision of this Act shall be treated as an unfair or deceptive act or practice violating a rule promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a).

(2) ACTIONS BY THE COMMISSION.—The Commission may prevent any person from violating this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of this Act is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

(d) EFFECT ON OTHER LAWS.—Nothing contained in this Act shall be construed to limit the authority of the Commission under any other provision of law.

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

S. 1744. A bill to prohibit price gouging relating to gasoline and diesel fuels in areas affected by major disasters; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON of Florida. 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. 1744

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 ''Price Gouging Act of 2005''.

SEC. 2. PRICE GOUGING PROHIBITION FOLLOWING MAJOR DISASTERS.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

(1) by redesignating sections 25 and 26 (15 U.S.C. 57c, 58) as sections 26 and 27, respectively; and

(2) by inserting after section 24 (15 U.S.C. 57b–5) the following:

''SEC. 25. PROTECTION FROM PRICE GOUGING FOLLOWING MAJOR DISASTERS.

''(a) DEFINITIONS.—In this section:

''(1) AFFECTED AREA.—The term 'affected area' means an area affected by a major disaster declared by the President under Federal law in existence on the date of enactment of this subsection.

''(2) PRICE GOUGING.—The term 'price gouging' means the charging of an unconscionably excessive price by a supplier in an affected area.

''(3) SUPPLIER.—The term 'supplier' means any person that sells gasoline or diesel fuel for resale or ultimate consumption.

''(4) UNCONSCIONABLY EXCESSIVE PRICE.—The term 'unconscionably excessive price' means a price charged in an affected area for gasoline or diesel fuel that—

''(A) represents a gross disparity, as determined by the Commission in accordance with subsection (e), between the price charged for gasoline or diesel fuel and the average price of gasoline or diesel fuel charged by suppliers in the affected area during the 30-day period immediately before the President declares the existence of a major disaster; and

''(B) is not attributable to increased wholesale or operational costs incurred by the supplier in connection with the sale of gasoline or diesel fuel.

''(b) DETERMINATION OF THE COMMISSION.—Following the declaration of a major disaster by the President, the Commission shall—

''(1) consult with the Attorney General, the United States Attorney for the district in which the disaster occurred, and State and local law enforcement officials to determine whether any supplier in the affected area is charging or has charged an unconscionably excessive price for gasoline or diesel fuel provided in the affected area; and

''(2) establish within the Commission—

''(A) a toll-free hotline that a consumer may call to report an incidence of price gouging in the affected area; and

''(B) a program to develop and distribute to the public informational materials in English and Spanish to assist residents of the affected area in detecting and avoiding price gouging.

''(c) PRICE GOUGING INVOLVING DISASTER VICTIMS.—

''(1) OFFENSE.—During the 180-day period after the date on which a major disaster is declared by the President, no supplier shall sell, or offer to sell, gasoline or diesel fuel in an affected area at an unconscionably excessive price.

''(2) ACTION BY COMMISSION.—

''(A) IN GENERAL.—During the period described in paragraph (1), the Commission shall conduct investigations to determine whether any supplier in an affected area is in violation of paragraph (1).

''(B) POSITIVE DETERMINATION.—If the Commission determines under subparagraph (A) that a supplier is in violation of paragraph (1), the Commission shall take any action the Commission determines to be appropriate to remedy the violation.

''(3) CIVIL PENALTIES.—A supplier that commits an offense described in paragraph (1) may, in a civil action brought in a court of competent jurisdiction, be subject to—

''(A) a civil penalty of not more than $500,000;

''(B) an order to pay special and punitive damages;

''(C) an order to pay reasonable attorney's fees;

''(D) an order to pay costs of litigation relating to the offense;

''(E) an order for disgorgement of profits earned as a result of a violation of paragraph (1); and

''(F) any other relief determined by the court to be appropriate.

''(4) CRIMINAL PENALTY.—A supplier that knowingly commits an offense described in paragraph (1) shall be imprisoned not more than 1 year.

''(5) ACTION BY VICTIMS.—A person, Federal agency, State, or local government that suffers loss or damage as a result of a violation of paragraph (1) may bring a civil action against a supplier in any court of competent jurisdiction for disgorgement, special or punitive damages, injunctive relief, reasonable attorney's fees, costs of the litigation, and any other appropriate legal or equitable relief.

''(6) ACTION BY STATE ATTORNEYS GENERAL.—An attorney general of a State, or other authorized State official, may bring a civil action in the name of the State, on behalf of persons residing in the State, in any court of competent jurisdiction for disgorgement, special or punitive damages, reasonable attorney's fees, costs of litigation, and any other appropriate legal or equitable relief.

''(7) NO PREEMPTION.—Nothing in this section preempts any State law.

''(d) REPORT.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing—

''(1) the number of price gouging complaints received by the Commission for each major disaster declared by the President during the preceding year;

''(2) the number of price gouging investigations of the Commission initiated, in progress, and completed as of the date on which the report is prepared;

''(3) the number of enforcement actions of the Commission initiated, in progress, and completed as of the date on which the report is prepared;

''(4) an evaluation of the effectiveness of the toll-free hotline and program established under subsection (b)(2); and

''(5) recommendations for any additional action with respect to the implementation or effectiveness of this section.

''(e) DEFINITION OF GROSS DISPARITY.—Not later than 180 days after the date of enactment of this subsection, the Commission shall promulgate regulations to define the term 'gross disparity' for purposes of this section.''.

SEC. 3. EFFECT OF ACT.

Nothing in this Act, or an amendment made by this Act, affects any authority of the Federal Trade Commission in existence on the date of enactment of this Act with respect to price gouging actions.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1745. A bill to expand the availability of resources under the Community Services Block Grant Act for individuals affected by Hurricane Katrina; read the first time.

Mr. KENNEDY. Mr. President, it is an honor to join Senator ENZI in introducing the Community Services Disaster Assistance Act.

The bill contains additional support for State Community Service Block Grant offices, and community action agencies. Community Service Block Grant agencies provide low-income communities with the support they need to achieve self-sufficiency on a daily basis. Their programs and services include literacy, child health care, afterschool activities, low-income housing development, food stamps, and emergency shelter assistance.

In the days after Hurricane Katrina, these agencies have been on the front lines. According to the National Association of State Community Service Programs, 32 States and their community action agencies have assisted over 65,000 evacuees. In this time of massive crisis, these agencies have been indispensable.

This bill will help the State offices and agencies continue their amazing work. Community action agencies are already able to receive emergency funds from FEMA, and this bill expresses the sense of the Senate that emergency assistance should be made available immediately.

The bill also authorizes State offices to transfer a portion of their funds for Community Service Block Grant administration or discretionary programs to the Gulf Coast States. Offices that wish to provide monetary support will be able to do so.

The bill establishes a temporary income eligibility waiver for services funded by Community Services Block Grants in places designated as disaster areas. Evacuees will not have to worry about having the right paperwork ready, they will receive the services they need exactly when they need it.

The bill also permits agencies and State offices to send their staff to federally designated disaster areas in other parts of the same State or in other states to provide disaster assistance.

Support for this emergency work is more important today than ever. The States hit hardest by the Hurricane and flood were also some of the poorest. We in Congress have a responsibility to do all we can to help these States rebuild and thrive again. Passing this bill is a needed early step because it provides urgently needed assistance to invaluable community service organizations, and I urge my colleagues to approve it.

Mr. CORNYN. Mr. President, I rise today to introduce new legislation, titled the Good Samaritan Liability Improvement and Volunteer Encouragement, or ''GIVE'' Act of 2005. I introduce this legislation to ensure that, as we continue to cope with the aftermath of Hurricane Katrina, that one of our country's greatest assets—the willingness of the American people to give to their neighbors in need—is not inhibited by one of its greatest liabilities—a broken civil justice system.

In addition, I will take a few moments to remind my colleagues of legislation that I introduced just before the August recess: the Respirator Access Assurance Act of 2005. This legislation is of even greater importance in the wake of Hurricane Katrina—its passage would help to ensure that the thousands of workers, volunteers, and citizens of New Orleans working to restore that great city have the necessary protection to sift through the clean-up.

From its beginning, the United States has been a generous nation. Indeed, in commenting on his observations of America in 1831, French historian Alexis de Tocqueville praised Americans for voluntarily assisting their neighbors during times of need. He noted, ''When an American asks for the cooperation of his fellow citizens, it is seldom refused; and I have often seen it afforded spontaneously, and with great good will.''

Since that time, America has continued to grow into an ever-more generous nation. As measured by financial contributions, giving by Americans is at an all-time high. According to the Giving USA Foundation, philanthropic donations totaled almost $250 billion in 2004 and represented a 5 percent increase over the previous year. The chair of Giving USA notes that ''about 70 to 80 percent of Americans contribute annually to at least one charity.''

Financial contributions are infinitely valuable. But, as we all know, the value of the gift of time cannot be underestimated. Each and every year, millions of Americans volunteer their time and their personal services to charity. Americans volunteer in soup kitchens, schools, and health clinics, devoting countless hours to assist others.

And in the wake of Hurricane Katrina, we have seen this charitable spirit shine brighter than ever. In the short time since Katrina hit the Gulf Coast, Americans have given more than $600 million to disaster relief efforts. Millions of Americans have sent money, donated food, sent needed tools and equipment, given clothing, volunteered medical or other services, and otherwise helped in whatever manner they could.

Perhaps most heartwarming of all, thousands of Americans have opened their homes to those who lost everything. I am particularly proud of my home State of Texas—where more than

250,000 of our neighbors sought shelter—and where virtually all of them have been able to find it.

But just as America enjoys a culture of giving and volunteering, she also faces a culture of litigation. And this ''sue first, ask questions later'' culture has produced an environment of fear that often gives pause to some people who would otherwise wish to extend a helping hand.

As Common Good co-founder and chair, Philip Howard pointed out in hearings before the House Judiciary Committee in June of 2004, ''[w]hat we have found is that, in dealings throughout society, Americans no longer feel free to act on their reasonable judgment. The reason is that they no longer trust our system of justice. . . No part of society is immune. Playgrounds have been stripped of anything athletic. Even seesaws are disappearing because town councils can't afford to be sued if someone breaks an ankle. . . There is a missing link in American justice—rulings on who can sue for what.''

Unfortunately, volunteers and nonprofits face this question every day. To what degree should people volunteering services or providing needed equipment and supplies be forced to choose between lending a helping hand or facing the specter of litigation? And, should non-profit organizations such as the Red Cross and the Salvation Army struggle to find appropriate housing for evacuees due to liability concerns?

In an attempt to respond to these concerns, 8 years ago the late Senator Paul Coverdell sponsored and successfully worked to enact the Volunteer Protection Act of 1997—legislation that protects volunteers from many frivolous lawsuits. However, as helpful and well-intentioned as this legislation was, more needs to be done to sufficiently protect all those lending a hand to those in need.

Consider, for example: Early this year, a jury in Milwaukee found the Catholic Archdiocese liable because a volunteer for a Catholic lay organization, driving her own car, ran a red light and caused an accident while delivering a statue of the Virgin Mary to an invalid person. Although the church does not direct the activities of this group, called the Legion of Mary, its meetings are held on church property. The jury decided the Archdiocese should pay $17 million to the paralyzed victim, an 82-year-old semi-retired barber.

In response to Hurricane Katrina, the Red Cross and the Salvation Army are unable to coordinate efforts to set up emergency housing in private homes for evacuees because of liability issues.

In the midst of administering chest compressions to a dying woman several days after Hurricane Katrina struck, Dr. Mark N. Perlmutter was ordered to stop by a federal official because he wasn't registered with the Federal Emergency Management Agency. ''I begged him to let me continue,'' said Perlmutter, who left his home and practice as an orthopedic surgeon in Pennsylvania to come to Louisiana and volunteer to care for hurricane victims. ''People were dying, and I was the only doctor on the tarmac where scores of non-responsive patients lay on stretchers. Two patients died in front of me . . . I asked him to let me stay until I was replaced by another doctor, but he refused. He said he was afraid of being sued.''

So, today, even as volunteers, businesses, and non-profit organizations across the Nation are working to return New Orleans and the gulf coast region to something close to normal—I feel it is crucial to ensure that those volunteers are protected from needless and frivolous litigation.

That's why I am introducing today—and am proud to be joined by Senators HUTCHISON, VITTER, LOTT, GRASSLEY and THUNE—the Good Samaritan Liability Improvement and Volunteer Encouragement, or GIVE Act of 2005.

The legislation offers a comprehensive solution to the fear of litigation that unnecessarily burdens volunteers and often prevents the provision of necessary goods and services to those in need. It will provide protection for volunteers across the Nation, particularly those working in response to national disasters such as 9/11 or Hurricane Katrina. More specifically, the GIVE Act will provide that: Disaster relief volunteers, generally, are not liable for harm caused in carrying out their volunteer activities in connection with disaster relief, unless their act or omission constitutes willful, knowing or reckless misconduct; medical and other professionals can volunteer their services for disaster relief services based on being licensed in their home State regardless of where the declared disaster occurred; a disaster relief volunteer is protected from liability under the act even if the volunteer is not working for a specific non-profit organization; disaster relief volunteers can offer their services without subjecting their business partners or employers to liability; disaster relief volunteers are protected from punitive damages and non-economic damages are apportioned according to percentage of fault; non-profit organizations are not liable for the acts or omissions of their volunteers unless the organization has willfully disregarded or is recklessly indifferent to the safety of the individual harmed; all donors of goods or equipment—whether businesses, non-profits, or individuals—are not liable for harm caused by donating those items unless they acted with willful, knowing or reckless misconduct; and all litigation that proceeds despite any protections under this act or under the Volunteer Protection Act requires a high level of specificity and documentation in the claim and a review by a judge that the claim raises—as a matter of law—a genuine issue of material fact.

I urge my colleagues to support these two pieces of legislation—legislation designed to ensure that the fear of litigation that pervades our culture won't stand in the way of well-intentioned Americans trying to help their neighbors in need.

By Mr. KENNEDY (for himself, Ms. LANDRIEU, Mr. HARKIN, Mr. REID, Mr. DURBIN, Mr. SCHUMER, Mrs. CLINTON, Mr. DODD, Ms. MIKULSKI, Mr. BINGAMAN, Mrs. MURRAY, Mr. REED, Mr. LEAHY, Mr. SARBANES, Mr. KERRY, Mr. LIEBERMAN, Mr. AKAKA, Mrs. FEINSTEIN, Mrs. BOXER, Mr. FEINGOLD, Mr. BAYH, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, Mr. LAUTENBERG, and Mr. OBAMA):

S. 1749. A bill to reinstate the application of the wage requirements of the Davis-Bacon Act to Federal contracts in areas affected by Hurricane Katrina; to the Committee on Health, Education, labor, and Pensions.

Mr. KENNEDY. As we send hundreds of billions of dollars in Federal aid to the areas devastated by Hurrican Katrina, we must remember that we are just rebuilding highway and schools—we are rebuilding communities and neighborhoods. And the foundation of such communities is good jobs with fair wages.

The winds of Katrina exposed to all of America just how much more work remains to be done to achieve equality and fairness in this country. We are a stronger country when we are a fairer country. Yet, as the Administration awards billions of dollars in contracts to many of their corporate friends, they decide that the men and women of the gulf coast don't deserve to be paid a fair wage. The victims of Katrina have lost everything, and now President Bush says it is okay for them to lose their fair wages too. That is why I am introducing this legislation to ensure that that the workers involved in the recovery and reconstruction effort after Hurricane Katrina will earn a prevailing wage.

Many people harmed by Hurricane Katrina were already struggling to make ends meet. Mississippi and Louisiana rank 1st and 2nd among States by the percentage of people below the poverty line. Moreover, Mississippi and Louisiana rank 2nd and 3rd by the percentage of children below the poverty line. Now the devastation of hurricane has caused the jobs and businesses they relied on to disappear. Experts have said that from 400,000 to 1 million workers may become unemployed as a result of the hurricane, with the unemployment rate reaching 25 percent or higher in the gulf region. Many affected workers will be unemployed for 9 months or longer.

The new jobs in the clean up, recovery, and rebuilding of the area will be a major source of new employment, and we need to be sure that they pay decent wages. This is all that Davis-Bacon does: it simply ensures that workers on Federal Government

projects earn a typical wage. Otherwise the large size of Federal contracts can overwhelm a local labor market lead to bidding wars that drive wages down. Indeed, Representative Davis and Senator Bacon were Republicans who wanted to protect local contractors, who would not be able to compete in such a price war.

Workers who take these jobs will already face special hazards. Each day the administration reveals more details about workers' exposure to elevated levels of e.coli, toxic chemicals from flooded Superfund sites, and contaminants from massive oil spills. These workers should not have to suffer below-market wages, too.

But the President apparently believes that workers in Louisiana, Mississippi, Alabama, and parts of Florida don't even deserve to earn a decent wage for a day's work. He would have you believe that Davis-Bacon wages are exorbitant—nothing could be further from the truth. Indeed, in areas affected by Katrina, some typical wages include: $9.16 per hour sheet metal workers, in Pearl River County, MS, $10.00 per hour for laborers in Livingston Parish, LA, $8.54 hour for truck-drivers in Mobile County, AL. And Federal spending post-Hurricane Katrina should be lifting workers up, not forcing them into a race to the bottom.

I urge the Congress to reverse the President's decision and to stand with the hardworking men and women of the gulf coast as they rebuild their towns and their lives.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 245—RECOGNIZING THE LIFE AND ACCOMPLISHMENTS OF SIMON WIESENTHAL

Mr. SCHUMER (for himself, Mr. COLEMAN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. REID, Mr. BINGAMAN, Mr. WYDEN, Mrs. CLINTON, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. KENNEDY, Ms. STABENOW, Mr. LIEBERMAN, Mr. JOHNSON, Mr. HARKIN, Mr. KOHL, Mrs. MURRAY, Mr. FEINGOLD, Mr. DODD, Mr. BROWNBACK, Mr. SMITH, Mr. ROCKEFELLER, Mr. VOINOVICH, Mr. BIDEN, Mr. CORZINE, Mr. ALLEN, Mr. INHOFE, Mr. CARPER, Mr. GRAHAM, Mr. DEWINE, Mr. NELSON of Florida, Mr. LEVIN, Mr. GRASSLEY, Mr. BURR, Mr. ALEXANDER, Mr. MCCAIN, Mr. NELSON of Nebraska, Mrs. HUTCHISON, Mr. SARBANES, Mr. SALAZAR, Mr. CORNYN, Mr. HAGEL, Mr. TALENT, Mr. CONRAD, Ms. SNOWE, Mr. SANTORUM, Mr. DURBIN, and Mr. LEAHY) submitted the following resolution; which was considered and agreed to:

S. RES. 245

Whereas Simon Wiesenthal was born on December 31, 1908, to Jewish merchants in Buczacz, in what is now the Lvov Oblast section of the Ukraine;

Whereas after he was denied admission to the Polytechnic Institute in Lvov because of quota restrictions on Jewish students, Simon Wiesenthal received his degree in engineering from the Technical University of Prague in 1932;

Whereas Simon Wiesenthal worked in an architectural office until he was forced to close his business and become a mechanic in a bedspring factory, following the Russian army's occupation of Lvov and purge of Jewish professionals;

Whereas following the Germany occupation of Ukraine in 1941, Simon Wiesenthal was initially detained in the Janwska concentration camp near Lvov, after which he and his wife were assigned to the forced labor camp serving the Ostbahn Works, which was the repair shop for Lvov's Eastern Railroad;

Whereas in August of 1942, Simon Wiesenthal's mother was sent to the Belzec death camp as part of Nazi Germany's ''Final Solution'', and by the end of the next month 89 of his relatives had been killed;

Whereas with the help of the Polish Underground Simon Wiesenthal was able to help his wife escape the Ostbahn camp in 1942, and in 1943 was himself able to escape just before German guards began executing inmates, but he was recaptured the following year and sent to the Janwska camp;

Whereas following the collapse of the German eastern front, the SS guards at Janwska took Simon Wiesenthal and the remaining camp survivors and joined the westward retreat from approaching Russian forces;

Whereas Simon Wiesenthal was 1 of the few survivors of the retreat to Mauthausen, Austria and was on the brink of death, weighing only 99 pounds, when Mauthausen was liberated by American forces on May 5, 1945;

Whereas after surviving 12 Nazi prison camps, including 5 death camps, Wiesenthal chose not to return to his previous occupation, and instead dedicated himself to finding Nazi war criminals and bringing them to justice;

Whereas following the liberation of Mauthausen, Simon Wiesenthal began collecting evidence of Nazi activity for the War Crimes Section of the United States Army, and after the war continued these efforts for the Army's Office of Strategic Services and Counter-Intelligence Corps;

Whereas Simon Wiesenthal would also go on to head the Jewish Central Committee of the United States Zone of Austria, a relief and welfare organization;

Whereas Simon Wiesenthal and his wife were reunited in 1945, and had a daughter the next year;

Whereas the evidence supplied by Wiesenthal was utilized in the United States Zone war crime trials;

Whereas, after concluding his work with the United States Army in 1947, Simon Wiesenthal and others opened and operated the Jewish Historical Documentation Center in Linz, Austria, for the purpose of assembling evidence for future Nazi trials, before closing the office and providing its files to the Yad Vashem Archives in Israel in 1954;

Whereas despite his heavy involvement in relief work and occupational education for Soviet refugees, Simon Wiesenthal tenaciously continued his pursuit of Adolf Eichmann, who had served as the head of the Gestapo's Jewish Department and supervised the implementation of the ''Final Solution'';

Whereas in 1953, Simon Wiesenthal acquired evidence that Adolf Eichmann was living in Argentina and passed this information to the Government of Israel;

Whereas this information, coupled with information about Eichmann's whereabouts in Argentina provided to Israel by Germany in 1959, led to Eichmann's capture by Israeli agents, trial and conviction in Israel, and execution on May 31, 1961;

Whereas following Eichmann's capture, Wiesenthal opened a new Jewish Documentation Center in Vienna, Austria, for the purpose of collecting and analyzing information to aid in the location and apprehension of war criminals;

Whereas Karl Silberbauer, the Gestapo officer who arrested Anne Frank, Franz Stangl, the commandant of the Treblinka and Sobibor concentration camps in Poland, and Hermine Braunsteiner, who had supervised the killings of several hundred children at Majdanek, are among the approximately 1,100 war criminals found and brought to justice as a result of Simon Wiesenthal's investigative, analytical, and undercover operations;

Whereas Simon Wiesenthal bravely forged ahead with his mission of promoting tolerance and justice in the face of danger and resistance, including numerous threats and the bombing of his home in 1982;

Whereas the Simon Wiesenthal Center was established in 1977, to focus on the prosecution of Nazi war criminals, commemorate the events of the Holocaust, teach tolerance education, and promote Middle East affairs;

Whereas the Simon Wiesenthal Center monitors and combats the growth of neo-Nazi activity in Europe and keeps watch over concentration camp sites to ensure that the memory of the Holocaust and the sanctity of those sites are preserved;

Whereas the Simon Wiesenthal Center played a pivotal role in convincing foreign governments to pass laws enabling the prosecution of Nazi war criminals;

Whereas throughout his lifetime, Simon Wiesenthal has had many honors and awards bestowed upon him, including decorations from the Austrian and French resistance movements, the Dutch Freedom Medal, the Luxembourg Freedom Medal, the United Nations League for the Help of Refugees Award, the French Legion of Honor, and the United States Congressional Gold Medal, which was presented to him by President James Carter in 1980;

Whereas President Ronald W. Reagan once remarked, ''For what Simon Wiesenthal represents are the animating principles of Western civilization since the day Moses came down from Sinai: the idea of justice, the idea of laws, the idea of the free will.'';

Whereas President George H. W. Bush has stated that Simon Wiesenthal, ''is our living embodiment of remembrance. The two pledges of Simon Wiesenthal's life inspire us all — 'Never forget' and 'Never again'.'';

Whereas President William Clinton has remarked of Simon Wiesenthal, ''To those who know his story, one of miraculous survival and of relentless pursuit of justice, the answer is apparent. From the unimaginable horrors of the Holocaust, only a few voices survived, to bear witness, to hold the guilty accountable, to honor the memory of those who were killed. Only if we heed these brave voices can we build a bulwark of humanity against the hatred and indifference that is still all too prevalent in this world of ours.''; and

Whereas, at the end of a life dedicated to the pursuit of justice and advocacy for victims of the Holocaust, Simon Wiesenthal passed away on September 20, 2005, at the age of 96: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its most sincere condolences to the family and friends of Simon Wiesenthal;

(2) recognizes the life and accomplishments of Simon Wiesenthal, who, after surviving the Holocaust, spent more than 50 years helping to bring Nazi war criminals to justice and was a vigorous opponent of anti-Semitism, neo-Nazism, and racism; and