S. 3707

At the request of Mr. LOTT, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 3707, a bill to improve consumer access to passenger vehicle loss data held by insurers.

S. 3737

At the request of Mr. CARPER, his name was added as a cosponsor of S. 3737, a bill to amend the National Trails System Act to designate the Washington-Rochambeau Route National Historic Trail.

S. 3744

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 3744, a bill to establish the Abraham Lincoln Study Abroad Program.

S. 3791

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 3791, a bill to require the provision of information to parents and adults concerning bacterial meningitis and the availability of a vaccination with respect to such disease.

S. 3795

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 3795, a bill to amend title XVIII of the Social Security Act to provide for a two-year moratorium on certain Medicare physician payment reductions for imaging services.

At the request of Mr. SMITH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 3795, supra.

S. 3802

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3802, a bill to amend the Consolidated Omnibus Budget Reconciliation Act of 1985 to expand the county organized health insuring organizations authorized to enroll Medicaid beneficiaries.

S. 3819

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 3819, a bill to amend title XIX of the Social Security Act to provide for redistribution and extended availability of unexpended medicaid DSH allotments, and for other purposes.

S. 3847

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3847, a bill to designate the facility of the United States Postal Service located at 110 Cooper Street in Babylon, New York, as the ''Jacob Samuel Fletcher Post Office Building''.

S. 3853

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 3853, a bill to designate the facility of the United States Postal Service located at 39–25 61st Street in Woodside, New York, as the ''Thomas J. Manton Post Office Building''.

S. 3862

At the request of Mr. TALENT, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 3862, a bill to amend the Animal Health Protection Act to prohibit the Secretary of Agriculture from implementing or carrying out a National Animal Identification System or similar requirement, to prohibit the use of Federal funds to carry out such a requirement, and to require the Secretary to protect information obtained as part of any voluntary animal identification system.

S. 3884

At the request of Mr. LUGAR, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 3884, a bill to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

S. 3913

At the request of Mr. ROCKEFELLER, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Illinois (Mr. OBAMA) were added as cosponsors of S. 3913, a bill to amend title XXI of the Social Security Act to eliminate funding shortfalls for the State Children's Health Insurance Program (SCHIP) for fiscal year 2007.

S. 3918

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 3918, a bill to establish a grant program for individuals still suffering health effects as a result of the September 11, 2001, attacks in New York City and at the Pentagon.

S. 3931

At the request of Mr. SPECTER, his name and the name of the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 3931, a bill to establish procedures for the review of electronic surveillance programs.

S. 3936

At the request of Mr. FRIST, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of S. 3936, a bill to invest in innovation and education to improve the competitiveness of the United States in the global economy.

S. 3943

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3943, a bill to amend the Help America Vote Act of 2002 to reimburse jurisdictions for amounts paid or incurred in preparing, producing, and using contingency paper ballots in the November 7, 2006, Federal general election.

S. 3952

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3952, a bill to amend the Internal Revenue Code of 1986 to allow employees not covered by qualified retirement plans to save for retirement through automatic payroll deposit IRAs, to facilitate similar savings by the self-employed, and for other purposes.

AMENDMENT NO. 5029

At the request of Mr. DURBIN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of amendment No. 5029 intended to be proposed to H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

AMENDMENT NO. 5033

At the request of Mr. LUGAR, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of amendment No. 5033 proposed to H.R. 3127, a bill to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

AMENDMENT NO. 5066

At the request of Mrs. HUTCHISON, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of amendment No. 5066 intended to be proposed to H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

AMENDMENT NO. 5087

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of amendment No. 5087 proposed to S. 3930, a bill to authorize trial by military commission for violations of the law of war, and for other purposes.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 3963. A bill to amend title XVIII of the Social Security Act to provide for improved access to cost-effective, quality physical medicine and rehabilitation service under part B of the Medicare program, and for other purposes; to the Committee on Finance.

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the ''Access to Physical Medicine and Rehabilitation Services Improvement Act of 2006.'' This bill would improve patient access to physical medicine and rehabilitation services while also reducing Medicare costs.

As medicine has become increasingly specialized, the types of health professionals physicians employ to assist them in delivering high quality, cost-

effective healthcare has changed dramatically. While States have typically kept up with these developments by creating regulatory mechanisms to ensure that these health professionals are properly educated and trained, the Medicare program has not kept pace. In fact, a recent Medicare policy has actually turned back the clock on these innovative ways of delivering care and this is having a negative affect on not only the availability of services, but what Medicare pays for these services.

We are all well aware of the struggles the Medicare program has had trying to control spending for therapy services. In fact, we have had to impose a cap on beneficiary spending because it has gotten so out of control. Unfortunately, in the midst of our efforts to control aggregate spending on therapy services, the Centers for Medicare and Medicaid Services, CMS, has adopted policies that will lead to higher per beneficiary expenditures and make it even more difficult for seniors to get the care they need.

Since late in 2005, CMS has been enforcing a policy, sometimes referred to as the ''therapy incident-to'' rule, that prevents doctors from employing anyone other than a physical therapist to provide physical medicine and rehabilitation services in their offices. Frankly, this policy ignores the fact that there are many State licensed or certified health professionals who are qualified to offer identical services at a lower cost to Medicare.

Many of us are familiar with the devastating affects breast cancer has on millions of women and men each year. One of the consequences of breast cancer treatment is a condition called lymphedema. This is a debilitating and disfiguring swelling of the extremities that occurs from damage to the lymph nodes located in the arm pit. The only effective treatment for this condition is a specialized type of massage that should only be delivered by a certified lymphedema therapist. Due to CMS' policy, over ⅓ of the nationally certified lymphedema therapists can no longer provide this service to Medicare beneficiaries. Failure to treat lymphedema often results in long hospitals stays due to infection and can lead to amputation in the most extreme cases.

Prior to the adoption of the CMS rule, physicians had the freedom to choose the State licensed or authorized health professional they thought most appropriate to help their Medicare patients recover from injuries or debilitating conditions. I believe we should allow physicians, not government bureaucrats, to decide which State licensed healthcare professionals have the necessary education and training to provide the most high quality, cost-effective physical medicine and rehabilitation services to their patients. Additionally, the health professionals often approved to perform services are not readily available in many rural communities. This means patients must go without care or have to travel long distances to get services that were previously available in their home towns. As Republican Co-Chair of the Senate Rural Health Caucus, I have consistently supported policies and initiatives that help rural Medicare beneficiaries get and maintain access to services in their own communities in a more effective and efficient way.

Finally, it is important to note that access to state licensed, certified professionals will save the Medicare program money—not increase costs. The CMS rule implemented last year will result in higher Medicare expenditures than if the old policy had remained in place. In fact, a recent Medicare Payment Advisory Commission, MedPAC, report based on 2002 data showed that the most cost-effective place for Medicare beneficiaries to obtain physical therapy was in the physician's office. After reviewing the legislation, I hope that my colleagues will consider joining me in this important effort to restore physician judgment, patient choice, and common sense to the Medicare program.

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

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

S. 3963

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 ''Access to Physical Medicine and Rehabilitation Services Improvement Act of 2006''.

SEC. 2. ACCESS TO PHYSICAL MEDICINE AND REHABILITATION SERVICES PROVIDED INCIDENT TO A PHYSICIAN.

Section 1862(a)(20) of the Social Security Act (42 U.S.C. 1395y(a)(20)) is amended by striking ''(other than any licensing requirement specified by the Secretary)'' and inserting ''(other than any licensing, education, or credentialing requirements specified by the Secretary)''.

SEC. 3. COVERAGE OF CERTIFIED ATHLETIC TRAINER SERVICES AND CERTIFIED LYMPHEDEMA THERAPIST SERVICES UNDER PART B OF THE MEDICARE PROGRAM.

(a) COVERAGE OF SERVICES.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

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

(B) in subparagraph (AA), by adding ''and'' at the end; and

(C) by adding at the end the following new subparagraph:

''(BB) certified athletic trainer services (as defined in subsection (ccc)(1)) and lymphedema therapist services (as defined in subsection (ccc)(3)).''; and

(2) by adding at the end the following new subsection:

''Athletic Trainer Services and Lymphedema Therapist Services

''(ccc)(1) The term 'athletic trainer services' means services performed by a certified athletic trainer (as defined in paragraph (2)) under the supervision of a physician (as defined in section 1861(r)), which the athletic trainer is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician (as so defined) or as an incident to a physician's professional service, to an individual—

''(A) who is under the care of a physician (as so defined); and

''(B) with respect to whom a plan prescribing the type, amount, and duration of services that are to be furnished to such individual has been established by a physician (as so defined).

Such term does not include any services for which a facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

''(2) The term 'certified athletic trainer' means an individual who—

''(A) possesses a bachelor's, master's, or doctoral degree which qualifies for licensure or certification as an athletic trainer; and

''(B) in the case of an individual performing services in a State that provides for licensure or certification of athletic trainers, is licensed or certified as an athletic trainer in such State.

''(3) The term 'certified lymphedema therapist services' means services performed by a certified lymphedema therapist (as defined in paragraph (4)) under the supervision of a physician (as defined by paragraph (1) or (3) of section 1861(r)) which the lymphedema therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician (as so defined) or as incident to a physicians professional service, to an individual—

''(A) who is under the care of a physician (as so defined); and

''(B) with respect to whom a plan prescribing the type, amount, and duration of services that are to be furnished to such individual has been established by a physician (as so defined).

Such term does not include any services for which a facility or other provider charges or is paid any amounts with respect to the furnishing of such services

''(4) The term 'certified lymphedema therapist' means an individual who—

''(A) possesses a current unrestricted license as a health professional in the State in which he or she practices;

''(B) after obtaining such a license, has successfully completed 135 hours of Complete Decongestive Therapy coursework which consists of theoretical instruction and practical laboratory work utilizing teaching methods directly aimed at the treatment of lymphatic and vascular disease from a lymphedema training program recognized by the Secretary for purposes of certifying lymphedema therapists; and

''(C) in the case of an individual performing services in a State that provides for licensure or certification of lymphedema therapists, is licensed or certified as a lymphedema therapist in such State.''.

(b) PAYMENT.—

(1) IN GENERAL.—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

''(v) athletic trainer services and lymphedema therapist services; and''.

(2) AMOUNT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking ''and (V)'' and inserting ''(V)''; and

(B) by inserting before the semicolon at the end the following: '', and (W) with respect to athletic trainer services and lymphedema therapist services under section 1861(s)(2)(BB), the amounts paid shall be 80 percent of the lesser of the actual charge for the service or the fee schedule amount under section 1848 for the same service performed by a physician''.

(c) INCLUSION OF SERVICES IN THE THERAPY CAP.—Services provided by a certified athletic trainer or a certified lymphedema therapist (as those terms are defined in section 1861(ccc) of the Social Security Act, as added by subsection (a)) shall be subject to the limitation on payments described in section 1833(g) of such Act (42 U.S.C. 13951(g)) in the same manner those services would be subject to limitation if the service had been provided by a physician personally.

(d) INCLUSION OF ATHLETIC TRAINERS AND LYMPHEDEMA THERAPISTS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C.1395u(b)(18)(C)) is amended by adding at the end the following new clauses:

''(vii) A certified athletic trainer (as defined in section 1861(ccc)(1)).

''(viii) A certified lymphedema therapist (as defined in section 1861(ccc)(2)).''.

(e) COVERAGE OF CERTAIN PHYSICAL MEDICINE AND REHABILITATION SERVICES PROVIDED IN RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking ''or by a clinical social worker (as defined in subsection (hh)(1))'' and inserting '', by a clinical social worker (as defined in subsection (hh)(1)), by a certified athletic trainer (as defined in subsection (ccc)(2)), or by a certified lymphedema therapist (as defined in subsection (ccc)(4))''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 2007.

By Mr. LOTT:

S. 3964. A bill to provide for the issuance of a commemorative postage stamp in honor of Senator Blanche Kelso Bruce; to the Committee on Homeland Security and Governmental Affairs.

Mr. LOTT. Mr. President, the first African American to serve a full term in the United States Senate represented my great State of Mississippi.

Blanche Kelso Bruce was elected to the Senate in 1874 by the Mississippi State Legislature where he served from 1875 until 1881.

On February 14, 1879, he broke a second barrier by becoming the first African American to preside over a Senate session. He was a leader in the nationwide fight for African American rights, fighting for desegregation of the Army and protection of voting rights.

Blanche Kelso Bruce was born into slavery near Farmville, VA, on March 1, 1841, and spent his early years in Virginia and Missouri. He was 20 years old when the Civil War broke out. He tried to enlist in the Union Army but was rejected because of his race.

He then turned his attention to teaching and while in Missouri organized that State's first school for African Americans.

In 1869 he moved to Mississippi to become a planter on a cotton plantation, and the Magnolia State is where he became active in Republican politics. He rose in Mississippi politics from membership on the Mississippi Levee Board, as the sheriff and tax collector for Bolivar County surrounding Cleveland, Mississippi, and as the Sergeant-at-Arms for the Mississippi State Senate. It was Blanche Kelso Bruce's perseverance, selfless public service and commitment to Mississippi that led to the Mississippi State Legislature's election of him to serve in the U.S. Senate.

In the Senate, he served on the Pensions, Manufacturers, Education and Labor committees. He chaired the Committee on River Improvements and the Select Committee to Investigate the Freedman's Savings and Trust Company.

Senator Bruce left the Senate in 1881 and was appointed Registrar of the Treasury by President James Garfield, a position he also held in 1897. He subsequently received appointments from Presidents Chester Arthur, Benjamin Harrison and William McKinley.

Senator Bruce joined the board of Howard University in Washington, D.C. where he received an honorary degree. He died in Washington on March 17, 1898, at the age of 57.

Four years ago, on September 17, 2002, in my position as Senate Majority Leader, I joined with Senator CHRIS DODD in honoring this revered adopted son of Mississippi by unveiling the portrait of Blanche Kelso Bruce in the U.S. Capitol.

Today I rise to further honor this great statesman and pioneer by introducing legislation to issue the Senator Blanche Kelso Bruce commemorative postage stamp. Mississippi takes great pride in our leaders who often quietly, with little fanfare, blaze paths for the rest of the Nation to follow. Senator Blanche Kelso Bruce is one such great pioneer, and I call on my colleagues to join me in honoring him.

By Mrs. BOXER:

S. 3965. A bill to address the serious health care access barriers, and consequently higher incidences of disease, for low-income, uninsured populations; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, today I rise to introduce the Latina Health Access Act. This important legislation addresses the serious health care access barriers, and consequently higher incidences of disease and poorer health outcomes, for the Latina population in the United States.

The United States has witnessed a tremendous growth in the Latino population across the Nation. There are now 35 million Latinos residing in the U.S., and Latinas are more than half of the total Latino population—for a total of 18 million Latinas in the United States. In my home State of California, 29 percent of the female population is Latina—this is approximately 5 million women. The number of Latinas is expected to continue to grow, and it is estimated that by 2050, one out of every four women in the U.S. will be a Latina. Despite their growing numbers, Latinas continue to disproportionately face serious health concerns, including sexually transmitted diseases, diabetes, and cancer, which are otherwise preventable, or treatable, with adequate health access.

Latinas are particularly at risk for being uninsured. It is estimated that 37 percent of Latinas are uninsured, almost double the rate of the national average. This lack of adequate health care results in health problems that could otherwise be prevented. For example, 1 in 12 Latinas will develop breast cancer nationwide. White women have the highest rates of breast cancer; however, Latinas have among the lowest rates of breast cancer screening, diagnosis and treatment. As a result, Latinas are more likely to die from breast cancer than white women. Also, the prevalence of diabetes is at least two to four times higher among Latinas than among white women. More than 25 percent of Latinas aged 65 to 74 have Type II diabetes. All of these health problems would be more effectively treated or prevented with adequate health care coverage.

To address these health concerns, the Latina Health Access Act provides a two-fold approach to dealing with this problem. First, the bill would provide greater health access to Latinas. Second, the bill would provide educational outreach programs targeted at Latinas in regards to health care access.

The bill would create a program at the Department of Health and Human Services (HHS) that provides funding for high-performing hospitals and community health centers targeted at serving the growing Latina population of the United States. Also, the bill would mandate that HHS provide grants to various nonprofits, state or local governments that serve Latino communities, and lastly to women of color who seek to create diversity in the health care community. Finally, the bill would direct HHS to provide $18 million for grants to fund research institutions so that they may conduct research on the health status of Latinas.

The Latina Health Access Act also focuses on educational outreach to the Latina population. The bill would fund health education programs targeted specifically to Latinas through community-centered informational forums, public service announcements and media campaigns.

Adequate health access is the key to diagnosing and treating diseases before they become deadly and rampant. We need to strengthen our efforts to bring greater health access to the Latina population. I urge my colleagues to join me in supporting this effort.

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

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

S. 3965

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 ''Latina Health Access Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) As of 2006, there are 18,000,000 Latinas residing in the United States. The number of Latinas is expected to grow considerably. It is estimated that by the year 2050, 1 out of every 4 women in the United States will be a Latina.

(2) Latinas are particularly at risk for being uninsured. 37 percent of Latinas are uninsured, almost double the national average.

(3) With respect to sexually transmitted diseases—

(A) the HIV infection rate is 7 times more for Latinas than their white counterparts, and Latinas represent 18 percent of new HIV infections among women;

(B) the AIDS case rate for Latinas is more than 5 times more than the rate for white women;

(C) the rate of chlamydia for Latinas is 4 times more than the rate for white women; and

(D) among Latinas, the gonorrhea incidence is nearly double that of white women.

(4) With respect to cancer—

(A) The national incidence rate for cervical cancer in Latinas over the age of 30 is nearly double that of non-Latinas;

(B) 1 in 12 Latinas nationwide will develop breast cancer; and

(C) while white women have the highest rates of breast cancer, Latinas have among the lowest rates of breast cancer screening, diagnosis and treatment and, as a result, are more likely to die from breast cancer compared to white women.

(5) The prevalence of diabetes is at least 2 to 4 times more among Latinas than among white women. More than 25 percent of Latinas aged 65 to74 have Type II diabetes.

(6) Heart disease is the main cause of death for all women, and heart disease risk and death rates are higher among Latinas partly because of higher rates of obesity and diabetes.

(7) Therefore, despite their growing numbers, Latinas continue to face serious health concerns (including sexually transmitted diseases, diabetes, and cancer) that are otherwise preventable, or treatable, with adequate health access.

SEC. 3. HEALTH ACCESS FOR UNINSURED AND LOW-INCOME INDIVIDUALS.

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

''TITLE XXIX—HEALTH ACCESS FOR UNINSURED AND LOW-INCOME INDIVIDUALS

''SEC. 2901. HEALTH CARE ACCESS FOR PREVENTABLE HEALTH PROBLEMS.

''(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) a high-performing hospital or community health center that serves medically underserved areas with large numbers of uninsured and low-income individuals, such as Latina populations;

''(2) a State or local government; or

''(3) a private nonprofit entity.

''(b) IN GENERAL.—The Secretary shall award grants to eligible entities to enable the eligible entities to provide programs and activities that provide health care services to uninsured and low-income individuals in medically underserved areas.

''(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(d) AUTHORIZED ACTIVITIES.—An eligible entity receiving a grant under this section shall use grant funds to carry out programs and activities that provide access to care for a full spectrum of preventable and treatable health care problems in a culturally and linguistically appropriate manner, including—

''(1) family planning services and information;

''(2) prenatal and postnatal care; and

''(3) assistance and services with respect to asthma, cancer, HIV disease and AIDS, sexually transmitted diseases, mental health, diabetes, and heart disease.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $18,000,000 for fiscal year 2007 and each succeeding fiscal year.

''SEC. 2902. FOCUS ON UNINSURED AND LOW-INCOME POPULATIONS.

''(a) PRIORITIZING HEALTH GRANTS TO INCREASE FUNDING EQUITY.—In order to create a more diverse movement, cultivate new leaders, and address health issues within medically underserved areas, the Secretary shall, in awarding grants and other assistance under this Act, reserve a portion of the grants and assistance for entities that—

''(1) represent medically underserved areas or populations with a large number of uninsured and low-income individuals; and

''(2) otherwise meet all requirements for the grant or assistance.

''(b) RESEARCH BENEFITTING POPULATIONS WITH A LACK OF HEALTH DATA.—

''(1) GRANTS AUTHORIZED.—From amounts appropriated under paragraph (3) for a fiscal year, the Secretary shall award grants to research institutions in order to enable the institutions—

''(A) to conduct research on the health status of populations for which there is an absence of health data, such as the Latina population; or

''(B) to work with organizations that focus on populations for which there is an absence of health data, such as the Latina population, on developing participatory community-based research methods.

''(2) APPLICATION.—A research institution desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $18,000,000 for fiscal year 2007 and each of the succeeding fiscal years.

''SEC. 2903. EDUCATION AND OUTREACH.

''(a) JOINT EFFORT FOR HEALTH OUTCOMES.—In order to improve health outcomes for uninsured and low-income individuals, the Secretary shall, through a joint effort with health care professionals, health advocates, and community-based organizations in medically underserved areas, provide outreach, education, and delivery of comprehensive health services to uninsured and low-income individuals in a culturally competent manner.

''(b) TARGETED HEALTH EDUCATION PROGRAMS.—The Secretary shall carry out a health education program targeted specifically to populations of uninsured and low-income individuals, including the Latina population, through community centered informational forums, public service announcements, and media campaigns.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $18,000,000 for fiscal year 2007 and each succeeding fiscal year.''.

By Mrs. BOXER:

S. 3966. A bill to provide assistance to State and nongovernmental entities to initiate public awareness and outreach campaigns to reduce teenage pregnancies; to the Committee on Health, Education, and Pensions.

Mrs. BOXER. Mr. President, today I rise to reintroduce the HOPE (Hispanas Organized for Political Equality) Youth Pregnancy Prevention Act.

The United States has the highest rate of teen pregnancy in the Western industrialized world, and the U.S. teen-pregnancy rate is nearly twice that of Canada and Great Britain. Although overall teen pregnancy rates have decreased in recent years, the teen pregnancy rates for Hispanics and other ethnic and racial minority teens in the United States are significantly higher than the national average. For example, 51 percent of Latina girls in the U.S. will become pregnant once before the age 20.

The Latina population in the United States has grown tremendously. Currently, there are approximately 18 million Latinas that reside in the U.S. In my home State of California, 29 percent of all women are Latinas, this is approximately five million women. The number of Latinas is expected to continue to grow. It is estimated that by 2050, one out of every four women in the U.S. will be a Latina. Despite their growing numbers, Latinas continue to face serious health care access barriers and consequently higher incidences of teenage pregnancy.

To address the growing risk for many reproductive and other health concerns that are otherwise preventable, the HOPE Youth Pregnancy Prevention Act would provide a comprehensive solution and the resources to help prevent teen pregnancy among at-risk and minority youth.

Specifically, the bill would provide grants to States, localities, and nongovernmental organizations for teenage pregnancy prevention activities targeted to areas with large ethnic minorities and other at-risk youth. These grants could be used for a number of activities, including youth development, work-related interventions and other educational activities, parental involvement, teenage outreach and clinical services. The bill would authorize $30 million a year for five years for these grants.

The bill would also provide grants to States and non-governmental organizations to establish multimedia public awareness campaigns to combat teenage pregnancy. These campaigns would aim to prevent teen pregnancy through TV, radio and print ads, billboards, posters, and the Internet. Priority would be given to those activities that target ethnic minorities and other at-risk youth.

Over the past 10 years, we have made progress in reducing teen pregnancy, but our work is not done. We need to strengthen our efforts, especially among Latinas and other minority

youth. I urge my colleagues to join me in supporting this effort.

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

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

S. 3966

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 ''HOPE Youth Pregnancy Prevention Act''.

SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

''SEC. 399Q. YOUTH PREGNANCY PREVENTION.

''(a) AT-RISK TEEN PREGNANCY PREVENTION GRANTS.—

''(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to carry out teenage pregnancy prevention activities that are targeted at areas with large ethnic minorities and other youth at-risk of becoming pregnant.

''(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

''(A) be a State or local government or a private nonprofit entity; and

''(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(3) ELIGIBLE ACTIVITIES.—Activities carried out under a grant under this subsection may include—

''(A) youth development for adolescents;

''(B) work-related interventions and other educational activities;

''(C) parental involvement;

''(D) teenage outreach; and

''(E) clinical services.

''(b) MULTIMEDIA PUBLIC AWARENESS AND OUTREACH GRANTS.—

''(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to establish multimedia public awareness campaigns to combat teenage pregnancy.

''(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

''(A) be a State government or a private nonprofit entity; and

''(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(3) ACTIVITIES.—The purpose of the campaigns established under a grant under paragraph (1) shall be to prevent teenage pregnancy through the use of advertising using television, radio, print media, billboards, posters, the Internet, and other methods determined appropriate by the Secretary.

''(4) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that express an intention to carry out activities that target ethnic minorities and other at-risk youth.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

''(1) to carry out subsection (a), $30,000,000 for each of fiscal years 2007 through 2011; and

''(2) to carry out subsection (b), $20,000,000 for each of fiscal years 2007 through 2011.''.

By Mrs. CLINTON:

S. 3967. A bill to require the International Trade Commission to report on the specific impact of each free trade agreement in force with respect to the United States on a sector-by-sector basis, and for other purposes; to the Committee on Finance.

Mrs. CLINTON. Mr. President, I am pleased today to introduce a bill that will help inform the Congress and the American people about our Nation's trade agreements.

The trade policy debate here in Washington is heated and polarized. Supporters of ''free trade'' often view trade agreements uncritically and without question while others are suspicious of any agreement that makes it easier to trade with other countries. I believe that trade policy decisions should be based on an understanding of the concrete results of these agreements and the impact that they have on our economy and the American people, rather than on preconceived notions.

My bill, the Trade Agreement Accountability Act, will inject factual analysis in to this debate. The bill requires the International Trade Commission to report on the effects of every trade agreement we sign. These reports will examine the good and the bad of every trade agreement after two years, after five years and then every five years after it goes into effect. They will study the effect of each trade agreement on a sector-by-sector basis, and conduct an assessment and quantitative analysis of how each agreement is fostering economic growth, improving living standards and helping to create jobs.

In short, this bill will help educate policymakers and the American people about this important debate. I hope that by evaluating the results of past agreements, we will be able to better understand the consequences of future ones.

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

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

S. 3967

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 '' Trade Agreement Assessment Act''.

SEC. 2. ITC REPORT.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, 5 years after the date of the enactment of this Act, and every 5 years thereafter, the International Trade Commission shall submit a report to Congress on each free trade agreement in force with respect to the United States. The report shall, with respect to each free trade agreement, contain an analysis and assessment of the analysis and predictions made by the International Trade Commission, the United States Trade Representative, and other Federal agencies, before implementation of the agreement and actual results of the agreement on the United States economy.

(b) CONTENTS OF REPORT.—Each report required by subsection (a) shall contain the following:

(1) With respect to the United States and each country that is a party to a free trade agreement, an assessment and quantitative analysis of how each agreement—

(A) is fostering economic growth;

(B) is improving living standards;

(C) is helping create jobs; and

(D) is reducing or eliminating barriers to trade and investment.

(2) An assessment and quantitative analysis of how each agreement is meeting the specific objectives and goals set out in connection with the implementation of that agreement, the impact of the agreement on the United States economy as a whole, and on specific industry sectors, including the impact the agreement is having on—

(A) the gross domestic product;

(B) exports and imports;

(C) aggregate employment, and competitive positions of industries;

(D) United States consumers; and

(E) the overall competitiveness of the United States.

(3) An assessment and quantitative analysis of how each agreement is meeting the goals and objectives for the agreement on a sector-by-sector basis, including—

(A) trade in goods;

(B) customs matters, rules or origin, and enforcement cooperation;

(C) sanitary and phytosanitary measures;

(D) intellectual property rights;

(E) trade in services;

(F) electronic commerce;

(G) government procurement;

(H) transparency, anti-corruption; and regulatory reform; and

(I) any other issues with respect to which the International Trade Commission submitted a report under section 2104(f) of the Bipartisan Trade Promotion Authority Act of 2002.

(4) A summary of how each country that is a party to an agreement has changed its labor and environmental laws since entry into force of the agreement.

(5) An analysis of whether the agreement is making progress in achieving the applicable purposes, policies, priorities, and objectives of the Bipartisan Trade Promotion Authority Act of 2002.

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

S. 3968. A bill to affirm the authority of the Comptroller General to audit and evaluate the programs, activities, and financial transactions of the intelligence community, and for other purposes; to the Select Committee on Intelligence.

Mr. AKAKA. Mr. President, I rise to introduce ''The Intelligence Community Audit Act of 2006,'' with Senator LAUTENBERG which would reaffirm the Comptroller General of the United States and head of the Government Accountability Office's, GAO, authority to audit the financial transactions and evaluate the programs and activities of the intelligence community (IC). Representative BENNIE THOMPSON, ranking member of the House Homeland Security Committee, is introducing similar legislation.

The bill Senator LAUTENBERG and I offer today is in keeping with legislation introduced in 1987 by Senator John Glenn, the former chairman of the Governmental Affairs Committee, to ensure more effective oversight of the Central Intelligence Agency (CIA) in the wake of the Iran-Contra scandal.

The need for greater oversight and availability of information to appropriate congressional committees is not new. What is new is that Congress does not have the luxury of failure in this era of terrorism. Failure brings terrible consequence.

Since 9/11, effective oversight is needed now more than ever for two very basic reasons: First, intelligence reforms have spawned new agencies with new intelligence functions demanding even more inter-agency cooperation. The Congress needs to ensure that these agencies have the assets, resources, and capability to do their job in protecting our national security. However, now the Congress cannot do its job properly, in part, because its key investigative arm, the Government Accountability Office, is not given adequate access to the intelligence community, led by the Director of National Intelligence (DNI).

Moreover, intelligence oversight is no longer the sole purview of the Senate and House intelligence committees. Other committees have jurisdiction over such departments as Homeland Security, State, Defense, Justice, Energy, and even Treasury and Commerce, which, in this war on terrorism, have intelligence collection and sharing responsibilities. Nor is the information necessary for these committees to exercise their oversight responsibilities restricted to the two intelligence committees as their organizing resolutions make clear. Unfortunately, the intelligence community stonewalls the GAO when committees of jurisdiction request that GAO investigate problems despite the clear responsibility of Congress to ensure that these agencies are operating effectively to protect America.

This is not always the case. Some agencies recognize the valuable contribution that GAO makes in improving the quality of our intelligence. As Lieutenant General Lew Allen, Jr., then Director of the National Security Agency (NSA), observed in testimony before the Senate Select Committee To Study Governmental Operations With Respect To Intelligence Activities, on October 29, 1975: ''Another feature of congressional review is that since 1955 resident auditors of the General Accounting Office have been assigned at the Agency to perform on-site audits. Additional GAO auditors were cleared for access in 1973, and GAO, in addition to this audit, is initiating a classified review of our automatic data processing functions.'' Not surprisingly, this outpost of the GAO still exists at the NSA.

Second, and equally important, is the inability of Congress to ensure that unfettered intelligence collection does not trample civil liberties. New technologies and new personal information data bases threaten our individual right to a secure private life, free from unlawful government invasion. The Congress must ensure that private information being collected by the intelligence community is not misused and is secure.

Over 30 years ago, Senator Charles Percy urged Congress to ''act now to gain control over the Government's dangerously proliferating police, investigative, and intelligence activities.'' He noted that ''we find ourselves threatened by the specter of a 'watchdog' Government, breeding a nation of snoopers.''

The privacy concerns expressed by our former colleague have become vastly more complicated. As I have noted, the institutional landscape has become littered with new intelligence agencies with ever-increasing demands and responsibilities on law enforcement at every level of government since the establishment of the Department of Homeland Security and the passage of the Intelligence Reform and Terrorism Prevention Act of 2004. They have the legitimate mission to protect the country against potential threats. Congress' role is to ensure that their mission remains legitimate.

The intelligence community today consists of 19 different agencies or components: the Office of the Director of National Intelligence; Central Intelligence Agency; Department of Defense; Defense Intelligence Agency; National Security Agency; Departments of the Army, Navy, Marine Corps, and Air Force; Department of State; Department of Treasury; Department of Energy; Department of Justice; Federal Bureau of Investigation; National Reconnaissance Office; National Geospatial-Intelligence Agency; Coast Guard; Department of Homeland Security, and the Drug Enforcement Administration.

I ask unanimous consent that a memorandum prepared by the Congressional Research Service, entitled ''Congressional Intelligence Oversight,'' be included in the RECORD.

As both House Rule 48 and Senate Resolution 400 establishing the intelligence oversight committees state, ''Nothing in this [charter] shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the [House/Senate] to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.''

Despite this clear and unambiguous statement, the ability of non-intelligence committees to obtain information, no matter how vital to improving the security of our Nation, has been restricted by the various elements of the intelligence community.

Two recent incidents have made this situation disturbingly clear. At a hearing entitled ''Access Delayed: Fixing the Security Clearance Process, Part II,'' before the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia on which I serve as Ranking Member, on November 9, 2005, GAO was asked about steps it would take to ensure that the Office of Personnel Management (OPM), the Office of Management and Budget, and the intelligence community met the goals and objectives outlined in the OPM security clearance strategic plan. Fixing the security clearance process, which is on GAO's high-risk list, is essential to our national security. But as GAO observed in a written response to a question raised by Senator VOINOVICH, ''while we have the authority to do such work, we lack the cooperation we need to get our job done in that area.'' The intelligence community is blocking GAO's work in this essential area.

A similar case arose in response to a GAO investigation for the Senate Homeland Security Committee and the House Government Reform Committee on how agencies are sharing terrorism-related and sensitive but unclassified information. The report, entitled ''Information Sharing, the Federal Government Needs to Establish Policies and Processes for Sharing Terrorism-Related and Sensitive but Unclassified Information'' (GAO–06–385), was released in March 2006.

At a time when Congress is criticized by members of the 9–11 Commission for failing to implement its recommendations, we should remember that improving terrorism information sharing among agencies was one of the critical recommendations of the 9–11 Commission. Moreover, the Intelligence Reform and Terrorism Prevention Act of 2004 mandated the sharing of terrorism information through the creation of an Information Sharing Environment. Yet, when asked by GAO for comments on the GAO report, the Office of the Director of National Intelligence refused, stating that ''the review of intelligence activities is beyond GAO's purview.''

However, as a Congressional Research Service memorandum entitled ''Overview of 'Classified' and 'Sensitive but Unclassified' Information,'' concludes, ''it appears that pseudo-classification markings have, in some instances, had the effect of deterring information sharing for homeland security.'' I ask unanimous consent that the memo be printed in the RECORD following my remarks.

Unfortunately I have more examples, that predate the post 9–11 reforms. Indeed, in July 2001, in testimony entitled ''Central Intelligence Agency, Observations on GAO Access to Information on CIA Programs and Activities'' (GAO–01–975T) before the House Committee on Government Reform, the GAO noted, as a practical matter, ''our access is generally limited to obtaining information on threat assessments when the CIA does not perceives [sic] our audits as oversight of its activities.'' I ask consent that this testimony also be printed following my remarks.

It is inconceivable that the GAO—the audit arm of the U.S. Congress—has been unable to conduct evaluations of the CIA for over 40 years.

If the GAO had been able to conduct basic auditing functions of the CIA, perhaps some of the problems that were so clearly exposed following the terrorist attacks in September 2001 would have been resolved. And yet, it is extraordinary that five years after 9–11 the same problems persist.

Once more I refer to Senator Glenn's bill S. 1458, the ''General Accounting Office-Central Intelligence Agency Audit Act of 1987.'' On its introduction he said, ''in the long run, I believe carefully controlled GAO audits of CIA will lower the probability of future abuses of power, boost the credibility of CIA management, increase the essential public support the Agency's mission deserves, assist the Congress in conducting meaningful oversight, and in no way compromise the CIA mission.'' Unfortunately, S. 1458 did not become law, and nearly 20 years later, the CIA's apparent management challenges led to the creation of the Director of National Intelligence with the Intelligence Reform Act of 2004. If Senator Glenn's proposal made in 1987 had been accepted, perhaps, again, some of the problems that became apparent with our intelligence agencies following 9–11 might never have occurred.

I want to be clear that my legislation does not detract from the authority of the intelligence committees. In fact, the language makes explicit that the Comptroller General may conduct an audit or evaluation of intelligence sources and methods or covert actions only upon the request of the intelligence committees or at the request of the congressional majority or minority leaders. The measure also prescribes for the security of the information collected by the Comptroller General.

However, my bill reaffirms the authority of the Comptroller General to conduct audits and evaluations—other than those relating to sources and methods, or covert actions—relating to the management and administration of elements of the intelligence community in areas such as strategic planning, financial management, information technology, human capital, knowledge management, information sharing, and change management for other relevant committees of the Congress.

Attached is a detailed description of the legislation. I urge my colleagues to join me in supporting this legislation.

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

There being no objection the materials were ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, September 14, 2006.

Subject: Congressional Oversight of Intelligence.

From: Alfred Cumming, Specialist in Intelligence and National Security Foreign Affairs, Defense, and Trade Division.

This memorandum examines the intelligence oversight structure established by Congress in the 1970s, including the creation of the congressional select intelligence committees by the U.S. House of Representatives and the Senate, respectively. It also looks at the intelligence oversight role that Congress reserved for congressional committees other than the intelligence committees; examines certain existing statutory procedures that govern how the executive branch is to keep the congressional intelligence committees informed of U.S. intelligence activities; and looks at the circumstances under which the two intelligence committees are expected to keep congressional standing committees, as well as both chambers, informed of intelligence activities.

If I can be of further assistance, please call at 707–7739.

BACKGROUND

In the wake of congressional investigations into Intelligence Community activities in the mid-1970s, the U.S. Senate in 1976 created a select committee on intelligence to conduct more effective oversight on a continuing basis. The U.S. House of Representatives established its own intelligence oversight committee the following year.

Until the two intelligence committees were created, other congressional standing committees—principally the Senate and House Armed Services and Appropriations committees—shared responsibility for overseeing the intelligence community. Although willing to cede primary jurisdiction over the Central Intelligence Agency (CIA) to the two new select intelligence committees, these congressional standing committees wanted to retain jurisdiction over the intelligence activities of the other departments and agencies they oversaw. According to one observer, the standing committees asserted their jurisdictional prerogatives for two reasons—to protect ''turf,'' but also to provide ''a hedge against the possibility that the newly launched experiment in oversight might go badly.''

INTELLIGENCE COMMITTEES' STATUTORY OBLIGATIONS

Under current statute, the President is required to ensure that the congressional intelligence committees are kept ''fully and currently informed'' of U.S. intelligence activities, including any ''significant anticipated intelligence activity, and the President and the intelligence committees are to establish any procedures as may be necessary to carry out these provisions.

The statute, however, stipulates that the intelligence committees in turn are responsible for alerting the respective chambers or congressional standing committees of any intelligence activities requiring further attention. The intelligence committees are to carry out this responsibility in accordance with procedures established by the House of Representatives and the Senate, in consultation with the Director of National Intelligence, in order to protect against unauthorized disclosure of classified information, and all information relating to sources and methods.

The statute stipulates that: ''each of the congressional intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.''

This provision was included in statute after being specifically requested in a letter from then Senate Foreign Relations Chairman Frank Church and Ranking Minority Member Jacob Javits in an Apr. 30, 1980 letter to then-intelligence committee Chairman Birch Bayh and Vice Chairman Barry Goldwater.

INTELLIGENCE COMMITTEE OBLIGATIONS UNDER RESOLUTION

In an apparent effort to address various concerns relating to committee jurisdiction, the House of Representatives and the Senate, in the resolutions establishing each of the intelligence committees, included language preserving oversight roles for those standing committees with jurisdiction over matters affected by intelligence activities.

Specifically, each intelligence committee's resolution states that: ''Nothing in this [Charter] shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.''

Both resolutions also stipulate that:

Nothing in this [charter] shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the [House/Senate] to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

Finally, both charters direct that each intelligence committee alert the appropriate standing committees, or the respective chambers, of any matter requiring attention. The charters state:

The select committee, for the purposes of accountability to the [House/Senate] shall make regular and periodic reports to the [House/Senate] on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the [House/Senate] or to any other appropriate committee or committees of the [House/Senate] any matters requiring the attention of the [House/Senate] or such other appropriate committee or committees.

CROSS-OVER MEMBERSHIP

Both resolutions also direct that the membership of each intelligence committee include members who serve on the four standing committees that historically have been involved in intelligence oversight. The respective resolutions designate the following committees as falling in this category: Appropriations, Armed Services, Judiciary, and the Senate Foreign Relations Committee and the House International Relations Committee.

Although each resolution directs that such cross-over members be designated, neither specifies whether cross-over members are to play any additional role beyond serving on the intelligence committees. For example, neither resolution outlines whether cross-over members are to inform colleagues on standing committees they represent. Rather, each resolution directs only that the ''intelligence committee'' shall promptly call such matters to the attention of standing committees and the respective chambers if the committees determine that they require further attention by those entities.

SUMMARY CONCLUSIONS

Although the President is statutorily obligated to keep the congressional intelligence committees fully and currently informed of intelligence activities, the statute obligates the intelligence committees to inform the respective chambers, or standing committees, of such activities, if either of the two committees determine that further oversight attention is required.

Further, resolutions establishing the two intelligence committees make clear that the intelligence committees share intelligence oversight responsibilities with other standing committees, to the extent that certain intelligence activities affect matters that fall under the jurisdiction of a committee other than the intelligence committees.

Finally, the resolutions establishing the intelligence committees provide for the designation of ''cross-over'' members representing certain standing committees that

played a role in intelligence oversight prior to the establishment of the intelligence committees in the 1970s. The resolutions, however, do not specify what role, if any, these ''cross-over'' members play in keeping standing committees on which they serve informed of certain intelligence activities. Rather, each resolution states that the respective intelligence committee shall make that determination.

CONGRESSIONAL RESEARCH SERVICE, JULY 18, 2006.

MEMORANDUM

Subject: Overview of ''Classified'' and ''Sensitive but Unclassified'' Information

From: Harold C. Relyea, Specialist in American National Government, Government and Finance Division

Prescribed in various ways, federal policies may require the protection of, or a privileged status for, particular kinds of information. This memorandum provides a brief introduction to, and overview of, two categories of such information policy. The first category is demarcated largely in a single policy instrument—a presidential executive order—with a clear focus and in considerable detail: the classification of national security information in terms of three degrees of harm the disclosure of such information could cause to the nation, resulting in Confidential, Secret, and Top Secret designations. The second category is, by contrast with the first, much broader in terms of the kinds of information it covers, to the point of even being nebulous in some instances, and is expressed in various instruments, the majority of which are non-statutory: the marking of sensitive but unclassified (SBU) information for protective management, although its public disclosure may be permissible pursuant to the Freedom of Information Act (FOIA). These two categories are reviewed in the discussion set out below.

SECURITY CLASSIFIED INFORMATION

Current security classification arrangements, prescribed by an executive order of the President, trace their origins to a March 1940 directive issued by President Franklin D. Roosevelt as E.O. 8381. This development was probably prompted somewhat by desires to clarify the authority of civilian personnel in the national defense community to classify information, to establish a broader basis for protecting military information in view of growing global hostilities, and to manage better a discretionary power seemingly of increasing importance to the entire executive branch. Prior to this 1940 order, information had been designated officially secret by armed forces personnel pursuant to Army and Navy general orders and regulations. The first systematic procedures for the protection of national defense information, devoid of special markings, were established by War Department General Orders No. 3 of February 1912. Records determined to be ''confidential'' were to be kept under lock, ''accessible only to the officer to whom intrusted.'' Serial numbers were issued for all such ''confidential'' materials, with the numbers marked on the documents, and lists of same kept at the offices from which they emanated. With the enlargement of the armed forces after the entry of the United States into World War I, the registry system was abandoned and a tripartite system of classification markings was inaugurated in November 1917 with General Orders No. 64 of the General Headquarters of the American Expeditionary Force.

The entry of the United States into World War II prompted some additional arrangements for the protection of information pertaining to the nation's security. Personnel cleared to work on the Manhattan Project for the production of the atomic bomb, for instance, in committing themselves not to disclose protected information improperly, were ''required to read and sign either the Espionage Act or a special secrecy agreement,'' establishing their awareness of their secrecy obligations and a fiduciary trust which, if breached, constituted a basis for their dismissal.

A few years after the conclusion of World War II, President Harry S. Truman, in February 1950, issued E.O. 10104, which, while superseding E.O. 8381, basically reiterated its text, but added a fourth Top Secret classification designation to existing Restricted, Confidential, and Secret markings, making American information security categories consistent with those of our allies. At the time of the promulgation of this order, however, plans were underway for a complete overhaul of the classification program, which would result in a dramatic change in policy.

E.O. 10290, issued in September 1951, introduced three sweeping innovations in security classification policy. First, the order indicated the Chief Executive was relying upon ''the authority vested in me by the Constitution and statutes, and as President of the United States'' in issuing the directive. This formula appeared to strengthen the President's discretion to make official secrecy policy: it intertwined his responsibility as Commander in Chief with the constitutional obligation to ''take care that the laws be faithfully executed.'' Second, information was now classified in the interest of ''national security,'' a somewhat new, but nebulous, concept, which, in the view of some, conveyed more latitude for the creation of official secrets. It replaced the heretofore relied upon ''national defense'' standard for classification. Third, the order extended classification authority to nonmilitary entities throughout the executive branch, to be exercised by, presumably, but not explicitly limited to, those having some role in ''national security'' policy.

The broad discretion to create official secrets granted by E.G. 10290 engendered widespread criticism from the public and the press. In response, President Dwight D. Eisenhower, shortly after his election to office, instructed Attorney General Herbert Brownell to review the order with a view to revising or rescinding it. The subsequent recommendation was for a new directive, which was issued in November 1953 as E.O. 10501. It withdrew classification authority from 28 entities, limited this discretion in 17 other units to the agency head, returned to the ''national defense'' standard for applying secrecy, eliminated the ''Restricted'' category, which was the lowest level of protection, and explicitly defined the remaining three classification areas to prevent their indiscriminate use.

Thereafter, E.G. 10501, with slight amendment, prescribed operative security classification policy and procedure for the next two decades. Successor orders built on this reform. These included E.O. 11652, issued by President Richard M. Nixon in March 1972, followed by E.O. 12065, promulgated by President Jimmy Carter in June 1978. For 30 years, these classification directives narrowed the bases and discretion for assigning official secrecy to executive branch documents and materials. Then, in April 1982, this trend was reversed with E.O. 12356, issued by President Ronald Reagan. This order expanded the categories of classifiable information, mandated that information falling within these categories be classified, authorized the reclassification of previously declassified documents, admonished classifiers to err on the side of classification, and eliminated automatic declassification arrangements.

President William Clinton returned security classification policy and procedure to the reform trend of the Eisenhower, Nixon, and Carter Administrations with E.O. 12958 in April 1995. Adding impetus to the development and issuance of the new order were changing world conditions: the democratization of many eastern European countries, the demise of the Soviet Union, and the end of the Cold War. Accountability and cost considerations were also significant influences. In 1985, the temporary Department of Defense (DOD) Security Review Commission, chaired by retired General Richard G. Stilwell, declared that there were ''no verifiable figures as to the amount of classified material produced in DOD and in defense industry each year.'' Nonetheless, it concluded that ''too much information appears to be classified and much at higher levels than is warranted.'' In October 1993, the cost of the security classification program became clearer when the General Accounting Office (GAO) reported that it was ''able to identify government-wide costs directly applicable to national security information totaling over $350 million for 1992.'' After breaking this figure down—it included only $6 million for declassification work—the report added that ''the U.S. government also spends additional billions of dollars annually to safeguard information, personnel, and property.'' E.O. 12958 set limits for the duration of classification, prohibited the reclassification of properly declassified records, authorized government employees to challenge the classification status of records, reestablished the balancing test of E.O. 12065 weighing the need to protect information vis-a-vis the public interest in its disclosure, and created two review panels—one on classification and declassification actions and one to advise on policy and procedure.

Most recently, in March 2003, President George W. Bush issued E.O. 13292, amending E.O. 12958. Among the changes made by this order were adding infrastructure vulnerabilities or capabilities, protection services relating to national security, and weapons of mass destruction to the categories of classifiable information; easing the reclassification of declassified records; postponing the automatic declassification of protected records 25 or more years old, beginning in mid-April 2003 to the end of December 2006; eliminating the requirement that agencies prepare plans for declassifying records; and permitting the Director of Central Intelligence to block declassification actions of the Interagency Security Classification Appeals Panel, unless overruled by the President.

The security classification program has evolved during the past 66 years. One may not agree with all of its rules and requirements, but attention to detail in its policy and procedure result in a significant management regime. The operative executive order, as amended, defines its principal terms. Those who are authorized to exercise original classification authority are identified. Exclusive categories of classifiable information are specified, as are the terms of the duration of classification, as well as classification prohibitions and limitations. Classified information is required to be marked appropriately along with the identity of the original classifier, the agency or office of origin, and a date or event for declassification. Authorized holders of classified information who believe that its protected status is improper are ''encouraged and expected'' to challenge that status through prescribed arrangements. Mandatory declassification reviews are also authorized to determine if protected records merit continued classification at their present level, a lower level, or at all. Unsuccessful classification challenges

and mandatory declassification reviews are subject to review by the Interagency Security Classification Appeals Panel. General restrictions on access to classified information are prescribed, as are distribution controls for classified information. The Information Security Oversight Office (ISOO) within the National Archives and Records Administration (NARA) is mandated to provide central management and oversight of the security classification program. If the director of this entity finds that a violation of the order or its implementing directives has occurred, it must be reported to the head of the agency or to the appropriate senior agency official so that corrective steps, if appropriate, may be taken.

While Congress, thus far, has elected not to create statutorily mandated security classification policy and procedures, the option to do so has been explored in the past, and its legislative authority to do so has been recognized by the Supreme Court. Congress, however, has established protections for certain kinds of information—such as Restricted Data in the Atomic Energy Acts of 1946 and 1954, and intelligence sources and methods in the National Security Act of 1947—which have been realized through security classification arrangements. It has acknowledged properly applied security classification as a basis for withholding records sought pursuant to the Freedom of Information Act. Also, with a view to efficiency and economy, as well as effective records management, committees of Congress, on various occasions, have conducted oversight of security classification policy and practice, and have been assisted by GAO and CRS in this regard.

SENSITIVE BUT UNCLASSIFIED INFORMATION

The widespread existence and use of information control markings other than those prescribed for the security classification of information came to congressional attention in March 1972 when a subcommittee of what is now the House Committee on Government Reform launched the first oversight hearings on the administration and operation of the Freedom of Information Act (FOIA). Enacted in 1966, FOIA had become operative in July 1967. In the early months of 1972, the Nixon Administration was developing new security classification policy and procedure, which would be prescribed in E.O. 11652, issued in early March. Preparatory to this hearing, the panel had surveyed the departments and agencies in August 1971, asking, among other questions, ''What legend is used by your agency to identify records which are not classifiable under Executive Order 10501 [the operative order at the time] but which are not to be made available outside the government?'' Of 58 information control markings identified in response to this question, the most common were For Official Use Only (11 agencies); Limited Official Use (nine agencies); Official Use Only (eight agencies); Restricted Data (five agencies); Administratively Restricted (four agencies); Formerly Restricted Data (four agencies); and Nodis, or no dissemination (four agencies). Seven other markings were used by two agencies in each case. A CRS review of the agency responses to the control markings question prompted the following observation.

Often no authority is cited for the establishment or origin of these labels; even when some reference is provided it is a handbook, manual, administrative order, or a circular but not statutory authority. Exceptions to this are the Atomic Energy Commission, the Defense Department and the Arms Control and Disarmament Agency. These agencies cite the Atomic Energy Act, N.A.T.O. related laws, and international agreements as a basis for certain additional labels. The Arms Control and Disarmament Agency acknowledged it honored and adopted State and Defense Department labels.

Over three decades later, it appears that approximately the same number of these information control markings are in use; that the majority of them are administratively, not statutorily, prescribed; and that many of them have an inadequate management regime, particularly when compared with the detailed arrangements which govern the management of classified information. A recent press account illustrates another problem. In late January 2005, GCN Update, the online, electronic news service of Government Computer News, reported that ''dozens of classified Homeland Security Department documents'' had been accidently made available on a public Internet site for several days due to an apparent security glitch at the Department of Energy. Describing the contents of the compromised materials and reactions to the breach, the account stated the ''documents were marked 'for official use only,' the lowest secret-level classification.'' The documents, of course, were not security classified, because the marking cited is not authorized by E.O. 12958. Interestingly, however, in view of the fact that this misinterpretation appeared in a story to which three reporters contributed, perhaps it reflects, to some extent, the current confusion of these information control markings with security classification designations.

Broadly considering the contemporary situation regarding information control markings, a recent information security report by the JASON Program Office of the MITRE Corporation proffered the following assessment.

The status of sensitive information outside of the present classification system is murkier than ever. ''Sensitive but unclassified'' data is increasingly defined by the eye of the beholder. Lacking in definition, it is correspondingly lacking in policies and procedures for protecting (or not protecting) it, and regarding how and by whom it is generated and used.

A contemporaneous Heritage Foundation report appeared to agree with this appraisal, saying:

The process for classifying secret information in the federal government is disciplined and explicit. The same cannot be said for unclassified but security-related information for which there is no usable definition, no common understanding about how to control it, no agreement on what significance it has for U.S. national security, and no means for adjudicating concerns regarding appropriate levels of protection.

Concerning the current Sensitive but Unclassified (SBU) marking, a 2004 report by the Federal Research Division of the Library of Congress commented that guidelines for its use are needed, and noted that ''a uniform legal definition or set of procedures applicable to all Federal government agencies does not now exist.'' Indeed, the report indicates that SBU has been utilized in different contexts with little precision as to its scope or meaning, and, to add a bit of chaos to an already confusing situation, is ''often referred to as Sensitive Homeland Security Information.

Assessments of the variety, management, and impact of information control markings, other than those prescribed for the classification of national security information, have been conducted by CRS, GAO, and the National Security Archive, a private sector research and resource center located at The George Washington University. In March 2006, GAO indicated that, in a recent survey, 26 federal agencies reported using 56 different information control markings to protect sensitive information other than classified national security materia1. That same month, the National Security Archive offered that, of 37 agencies surveyed, 24 used 28 control markings based on internal policies, procedures, or practices, and eight used 10 markings based on statutory authority. These numbers are important in terms of the variety of such markings. GAO explained this dimension of the management problem.

[T]here are at least 13 agencies that use the designation For Official Use Only [FOUO], but there are at least five different definitions of FOUO. At least seven agencies or agency components use the term Law Enforcement Sensitive (LES), including the U.S. Marshals Service, the Department of Homeland Security (DHS), the Department of Commerce, and the Office of Personnel Management (OPM). These agencies gave differing definitions for the term. While DHS does not formally define the designation, the Department of Commerce defines it to include information pertaining to the protection of senior government officials, and OPM defines it as unclassified information used by law enforcement personnel that requires protection against unauthorized disclosure to protect the sources and methods of investigative activity, evidence, and the integrity of pretrial investigative reports.

Apart from the numbers, however, is another aspect of the management problem, which GAO described in the following terms.

There are no governmentwide policies or procedures that describe the basis on which agencies should use most of these sensitive but unclassified designations, explain what the different designations mean across agencies, or ensure that they will be used consistently from one agency to another. In this absence, each agency determines what designations to apply to the sensitive but unclassified information it develops or shares.

These markings also have implications in another regard. The importance of information sharing for combating terrorism and realizing homeland security was emphasized by the National Commission on Terrorist Attacks Upon the United States. That the variously identified and marked forms of sensitive but unclassified (SBU) information could be problematic with regard to information sharing was recognized by Congress when fashioning the Homeland Security Act of 2002. Section 892 of that statute specifically directed the President to prescribe and implement procedures for the sharing of information by relevant federal agencies, including the accommodation of ''homeland security information that is sensitive but unclassified.'' On July 29, 2003, the President assigned this responsibility largely to the Secretary of Homeland Security. Nothing resulted. The importance of information sharing was reinforced two years later in the report of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction. Congress again responded by mandating the creation of an Information Sharing Environment (ISE) when legislating the Intelligence Reform and Terrorism Prevention Act of 2004. Preparatory to implementing the ISE provisions, the President issued a December 16, 2005, memorandum recognizing the need for standardized procedures for SBU information and directing department and agency officials to take certain actions relative to that objective. In May 2006, the newly appointed manager of the ISE agreed with a March GAO assessment that, oftentimes, SBU information, designated as such with some marking, was not being shared due to concerns about the ability of recipients to adequately protect it. In brief, it appears that pseudo-classification markings have, in some instances, had the effect of deterring information sharing for homeland security purposes.

Congressional overseers have probed executive use and management of information

control markings other than those prescribed for the classification of national security information, and the extent to which they result in ''pseudo-classification'' or a form of overclassification. Relevant remedial legislation proposed during the 109th Congress includes two bills (H.R. 2331 and H.R. 5112) containing sections which would require the Archivist of the United States to prepare a detailed report regarding the number, use, and management of these information control markings and submit it to specified congressional committees, and to promulgate regulations banning the use of these markings and otherwise establish standards for information control designations established by statute or an executive order relating to the classification of national security information. A section in the Department of Homeland Security appropriations legislation (H.R. 5441), as approved by the House, would require the Secretary of Homeland Security to revise DHS MD (Management Directive) 11056 to include (1) provision that information that is three years old and not incorporated in a current, active transportation security directive or security plan shall be determined automatically to be releasable unless, for each specific document, the Secretary makes a written determination that identifies a compelling reason why the information must remain Sensitive Security Information (SSI); (2) common and extensive examples of the individual categories of SSI cited in order to minimize and standardize judgment in the application of SSI marking; and (3) provision that, in all judicial proceedings where the judge overseeing the proceedings has adjudicated that a party needs to have access to SSI, the party shall be deemed a covered person for purposes of access to the SSI at issue in the case unless TSA or DHS demonstrates a compelling reason why the specific individual presents a risk of harm to the nation. A May 25, 2006, statement of administration policy on the bill strongly opposed the section, saying it ''would jeopardize an important program that protects Sensitive Security Information (SSI) from public release by deeming it automatically releaseable in three years, potentially conflict with requirements of the Privacy and Freedom of Information Acts, and negate statutory provisions providing original jurisdiction for lawsuits challenging the designation of SSI materials in the U.S. Courts of Appeals.'' The statement further indicated that the section would create a ''burdensome review process'' for the Secretary of Homeland Security and ''would result in different statutory requirements being applied to SSI programs administered by the Departments of Homeland Security and Transportation.''

It is not anticipated that this memorandum will be updated for reissuance.

TESTIMONY BEFORE THE SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS, AND THE SUBCOMMITTEE ON NATIONAL SECURITY, VETERANS AFFAIRS, AND INTERNATIONAL RELATIONS, COMMITTEE ON GOVERNMENTAL REFORM, HOUSE OF REPRESENTATIVES

United States General Accounting Office

CENTRAL INTELLIGENCE AGENCY

OBSERVATIONS ON GAO ACCESS TO INFORMATION ON CIA PROGRAMS AND ACTIVITIES

Statement of Henry L. Hinton, Jr., Managing Director Defense Capabilities and Management

Messrs. Chairmen and Members of the Subcommittees:

We are pleased to be here to discuss the subject of access by the General Accounting Office (GAO) to information from the Central Intelligence Agency (CIA). Specifically, our statement will provide some background on CIA and its oversight mechanisms, our authority to review CIA programs, and the history and status of GAO access to CIA information. As requested, our remarks will focus on our relationship with the CIA and not with other intelligence agencies. Our comments are based upon our review of historic files, our legal analysis, and our experiences dealing with the CIA over the years.

SUMMARY

Oversight of the CIA generally comes from two select committees of Congress and the CIA's Inspector General. We have broad authority to evaluate CIA programs. In reality, however, we face both legal and practical limitations on our ability to review these programs. For example, we have no access to certain CIA ''unvouchered'' accounts and cannot compel our access to foreign intelligence and counterintelligence information. In addition, as a practical matter, we are limited by the CIA's level of cooperation, which has varied through the years. We have not actively audited the CIA since the early 1960s, when we discontinued such work because the CIA was not providing us with sufficient access to information to perform our mission. The issue has arisen since then from time to time as our work has required some level of access to CIA programs and information. However, given a lack of requests from the Congress for us to do specific work at the CIA and our limited resources, we have made a conscious decision not to further pursue the issue.

Today, our dealings with the CIA are mostly limited to requesting information that relates either to governmentwide reviews or analyses of threats to U.S. national security on which the CIA might have some information. The CIA either provides us with the requested information, provides the information with some restrictions, or does not provide the information at all. In general, we are most successful at getting access to CIA information when we request threat assessments and the CIA does not perceive our audits as oversight of its activities.

BACKGROUND

As you know, the General Accounting Office is the investigative arm of the Congress and is headed by the Comptroller General of the United States—currently David M. Walker. We support the Congress in meeting its constitutional responsibilities and help improve the performance and accountability of the federal government for the American people. We examine the use of public funds, evaluate federal programs and activities, and provide analyses, options, recommendations, and other assistance to help the Congress make effective oversight, policy, and funding decisions. Almost 90 percent of our staff days are in direct support of Congressional requestors, generally on the behalf of committee chairmen or ranking members.

The U.S. Intelligence Community consists of those Executive Branch agencies and organizations that work in concert to carry out our nation's intelligence activities. The CIA is an Intelligence Community agency established under the National Security Act of 1947 to coordinate the intelligence activities of several U.S. departments and agencies in the interest of national security. Among other functions, the CIA collects, produces, and disseminates foreign intelligence and counterintelligence; conducts counterintelligence activities abroad; collects, produces, and disseminates intelligence on foreign aspects of narcotics production and trafficking; conducts special activities approved by the President; and conducts research, development, and procurement of technical systems and devices.

OVERSIGHT OF CIA ACTIVITIES

Currently, two congressional select committees and the CIA's Inspector General oversee the CIA's activities. The Senate Select Committee on Intelligence was established on May 19, 1976, to oversee the activities of the Intelligence Community. Its counterpart in the House of Representatives is the House Permanent Select Committee on Intelligence, established on July 14, 1977. The CIA's Inspector General is nominated by the President and confirmed by the Senate. The Office of the Inspector General was established by statute in 1989 and conducts inspections, investigations, and audits at headquarters and in the field. The Inspector General reports directly to the CIA Director. In addition, the President's Foreign Intelligence Advisory Board assesses the quality, quantity, and adequacy of intelligence activities. Within the Board, there is an intelligence oversight committee that prepares reports on intelligence activities that may be unlawful or otherwise inappropriate. Finally, the Congress can charter commissions to evaluate intelligence agencies such as CIA. One such commission was the Commission on the Roles and Capabilities of the United States Intelligence Community, which issued a report in 1996.

GAG'S AUTHORITY TO REVIEW CIA PROGRAMS

Generally, we have broad authority to evaluate agency programs and investigate matters related to the receipt, disbursement, and use of public money. To carry out our audit responsibilities, we have a statutory right of access to agency records. Federal agencies are required to provide us information about their duties, powers, activities, organization, and financial transactions. This requirement applies to all federal agencies, including the CIA. Our access rights include the authority to file a civil action to compel production of records, unless (a) the records relate to activities the President has designated as foreign intelligence or counterintelligence activities, (b) the records are specifically exempt from disclosure by statute, or (c) the records would be exempt from release under the Freedom of Information Act because they are predecisional memoranda or law enforcement records and the President or Director of the Office of Management and Budget certifies that disclosure of the record could be expected to impair substantially the operations of the government.

The National Security Act of 1947 charges the CIA Director with protecting intelligence sources and methods from unauthorized disclosure. In terms of our statutory access authority, however, the law creates only one specific exemption: the so-called ''unvouchered'' accounts. The exemption pertains to expenditures of a confidential, extraordinary, or emergency nature that are accounted for solely on the certification of the Director. These transactions are subject to review by the intelligence committees. Amendments to the law require the President to keep the intelligence committees fully and currently informed of the intelligence activities of the United States. The CIA has maintained that the Congress intended the intelligence committees to be the exclusive means of oversight of the CIA, effectively precluding oversight by us.

While we understand the role of the intelligence committees and the need to protect intelligence sources and methods, we also believe that our authorities are broad enough to cover the management and administrative functions that the CIA shares with all federal agencies.

We have summarized the statutes relevant to our relationship with the CIA in an appendix attached to this testimony.

GAO'S ACCESS TO THE CIA HAS BEEN LIMITED

We have not done audit work at the CIA for almost 40 years. Currently, our access to the CIA is limited to requests for information that relates either to governmentwide reviews or programs for which the CIA might have relevant information. In general, we have the most success obtaining access to CIA information when we request threat assessments, and the CIA does not perceive our audits as oversight of its activities.

GAO ACCESS TO CIA HAS VARIED THROUGH THE YEARS

After the enactment of the National Security Act of 1947, we began conducting financial transaction audits of vouchered expenditures of the CIA. This effort continued into the early 1960s. In the late 1950s, we proposed to broaden its work at the CIA to include an examination of the efficiency, economy, and effectiveness of CIA programs. Although the CIA Director agreed to our proposal to expand the scope of our work, he placed a number of conditions on our access to information. Nonetheless, in October 1959, we agreed to conduct program review work with CIA-imposed restrictions on access.

Our attempt to conduct comprehensive program review work continued until May 1961, when the Comptroller General concluded that the CIA was not providing us with sufficient access to the information necessary to conduct comprehensive reviews of the CIA's programs and announced plans to discontinue audit work there. After much discussion and several exchanges of correspondence between GAO, the CIA, and the cognizant congressional committees, the Chairman of the House Armed Services Committee wrote to the Comptroller General in July 1962 agreeing that, absent sufficient GAO access to CIA information, GAO should withdraw from further audit activities at the CIA. Thus, in 1962, we withdrew from all audits of CIA activities.

The issue of our access has arisen periodically in the intervening years as our work has required some level of access to CIA programs and activities. In July 1975, Comptroller General Elmer Staats testified on our relationship with the intelligence community and cited several cases where CIA had not provided us with the requested information. In July 1987, Senator John Glenn introduced a bill (S. 1458) in the 100th Congress to clarify our audit authority to audit CIA programs and activities. In 1994, the CIA Director sought to further limit our audit work of intelligence programs, including those at the Department of Defense. We responded by writing to several key members of the Congress, citing our concerns and seeking assistance. As a result, we and the CIA began negotiations on a written agreement to clarify our access and relationship. Unfortunately, we were unable to reach any agreement with CIA on this matter. Since then, GAO has limited its pursuit of greater access because of limited demand for this work from Congress, particularly from the intelligence committees. Given a lack of Congressional requests and our limited resources, we have made a conscious decision to deal with the CIA on a case-by-case basis.

CURRENT ACCESS FALLS INTO THREE CATEGORIES

Currently, the CIA responds to our requests for information in three ways: it provides the information, it provides the information or a part of it with some restriction, or it does not provide the information at all. Examples of each of these three situations, based on the experiences of our audit staff in selected reviews in recent years, are listed below.

Sometimes the CIA straightforwardly fulfills our requests for briefings or reports related to threat assessments. This is especially true when we ask for threat briefings or the CIA's assessments or opinions on an issue not involving CIA operations.

For our review of the State Department's Anthrax Vaccination Program for the Senate Foreign Relations and House International Relations Committees, we requested a meeting to discuss the CIA's perspective on a recent threat assessment of chemical and biological threats to U.S. interests overseas. The CIA agreed with our request, provided a meeting within 2 weeks, and followed up with a written statement.

While we were reviewing U.S. assistance to the Haitian justice system and national police on behalf of the Senate Foreign Relations and House International Relations Committees, we requested a meeting to discuss the Haitian justice system. The CIA agreed with our request and met with our audit team within 3 weeks of our request.

For our review of chemical and biological terrorist threats for the House Armed Services Committee, and subcommittees of the House Government Reform Committee and the House Veterans Affairs Committee, we requested meetings with CIA analysts on their threat assessments on chemical and biological weapons. The CIA cooperated and gave us access to documents and analysts.

On several of our reviews of counterdrug programs for the House Government Reform Committee and the Senate Foreign Relations Committee we requested CIA assessments on the drug threat and international activities. The CIA has provided us with detailed briefings on drug cultivation, production, and trafficking activities in advance of our field work overseas.

During our reviews of Balkan security issues and the Dayton Peace Accords for the House Armed Services Committee and the Senate Foreign Relations Committee, we asked the CIA for threat assessments relevant to our review objectives. The CIA provided us with appropriate briefings and agreed to provide one of our staff members with access to regular intelligence reports.

In some instances, the CIA provides information with certain access restrictions or discusses an issue with us without providing detailed data or documentation.

During our evaluation of equal employment opportunity and disciplinary actions for a subcommittee of the House Committee on the Post Office and Civil Service, the CIA provided us with limited access to information. CIA officials allowed us to review their personnel regulations and take notes, but they did not allow us to review personnel folders on individual disciplinary actions. This was in contrast to the National Security Agency and Defense Intelligence Agency, which gave us full access to personnel folders on individual terminations and disciplinary actions.

For our review of the Department of Defense's efforts to address the growing risk to U.S. electronic systems from high-powered radio frequency weapons for the Joint Economic Committee, the CIA limited our access to one meeting. Although the technology associated with such systems was discussed at the meeting, the CIA did not provide any documentation on research being conducted by foreign nations.

On some of our audits related to national security issues, the CIA provides us with limited access to its written threat assessments and analyses, such as National Intelligence Estimates. However, the CIA restricts our access to reading the documents and taking notes at the CIA or other locations. Examples include our readings of National Intelligence Estimates related to our ongoing work evaluating federal programs to combat terrorism.

In other cases, the CIA simply denies us access to the information we requested. The CIA's refusals are not related to the classification level of the material. Many of our staff have the high-level security clearances and accesses needed to review intelligence information. But the CIA considers our requests as having some implication of oversight and denies us access.

For our evaluation of national intelligence estimates regarding missile threats for the House National Security Committee, the CIA refused to meet with us to discuss the general process and criteria for producing such estimates or the specific estimates we were reviewing. In addition, officials from the Departments of Defense, State, and Energy told us that CIA had asked them not to cooperate with us.

During our examination of overseas arrests of terrorists for the House Armed Services Committee and a subcommittee of the House Government Reform Committee, the CIA refused to meet with us to discuss intelligence issues related to such arrests. The CIA's actions were in contrast to those of two other departments that provided us full access to their staff and files.

On our review of classified computer systems in the federal government for a subcommittee of the House Government Reform Committee, we requested basic information on the number and nature of such systems. The CIA did not provide us with the information, claiming that they would not be able to participate in the review because the type of information is under the purview of congressional entities charged with overseeing the Intelligence Community.

For our review of the policies and procedures used by the Executive Office of the President to acquire and safeguard classified intelligence information, done for the House Rules Committee, we asked to review CIA forms documenting that personnel had been granted appropriate clearances. The CIA declined our request, advising us that type of information we were seeking came under the purview of congressional entities charged with overseeing the intelligence community.

CONCLUSION

Our access to CIA information and programs has been limited by both legal and practical factors. Through the years our access has varied and we have not done detailed audit work at CIA since the early 1960s. Today, our access is generally limited to obtaining information on threat assessments when the CIA does not perceives our audits as oversight of its activities. We foresee no major change in our current access without substantial support from Congress—the requestor of the vast majority of our work. Congressional impetus for change would have to include the support of the intelligence committees, who have generally not requested GAG reviews or evaluations of CIA activities. With such support, we could evaluate some of the basic management functions at CIA that we now evaluate throughout the federal government.

This concludes our testimony. We would be happy to answer any questions you may have.

GAO Contacts and Staff Acknowledgment

For future questions about this testimony, please contact Henry L. Hinton, Jr., Managing Director, Defense Capabilities and Management at (202) 512–4300. Individuals making key contributions to this statement include Stephen L. Caldwell, James Reid, and David Hancock.

APPENDIX I: LEGAL FRAMEWORK FOR GAO AND CIA

GAO'S AUDIT AUTHORITY

The following statutory provisions give GAO broad authority to review agency programs and activities:

31 U.S.C. 712: GAO has the responsibility and authority for investigating matters relating to the receipt, disbursement, and use of public money, and for investigating and reporting to either House of Congress or appropriate congressional committees.

1 U.S.C. 717: GAO is authorized to evaluate the results of programs and activities of federal agencies. Reviews are based upon the initiative of the Comptroller General, an order from either House of Congress, or a request from a committee with jurisdiction.

31 U.S.C. 3523: This provision authorizes GAO to audit financial transactions of each agency, except as specifically provided by law.

31 U.S.C. 3524: This section authorizes GAO to audit unvouchered accounts (*i.e.*, those accounted for solely on the certificate of an executive branch official). The President may exempt sensitive foreign intelligence and counterintelligence transactions. CIA expenditures on objects of a confidential, extraordinary, or emergency nature under 50 U.S.C. 403j(b) are also exempt. Transactions in these categories may be reviewed by the intelligence committees.

GAO'S ACCESS-TO-RECORDS AUTHORITY

31 U.S.C. 716: GAO has a broad right of access to agency records. Subsection 716(a) requires agencies to give GAO information it requires about the ''duties, powers, activities, organization, and financial transactions of the agency.'' This provision gives GAO a generally unrestricted right of access to agency records. GAO in turn is required to maintain the same level of confidentiality for the information as is required of the head of the agency from which it is obtained.

Section 716 also gives GAO the authority to enforce its requests for records by filing a civil action in federal district court. Under the enforcement provisions in 31 U.S.C. 716(d)(1), GAO is precluded from bringing a civil action to compel the production of a record if:

1. the record relates to activities the President designates as foreign intelligence or counterintelligence (see Executive Order No. 12333, defining these terms);

2. the record is specifically exempted from disclosure to GAO by statute; or

3. the President or the Director of the Office of Management and Budget certifies to the Comptroller General and Congress that a record could be withheld under the Freedom of Information Act exemptions in 5 U.S.C. 552(b)(5) or (7) (relating to deliberative process and law enforcement information, respectively), and that disclosure of the information reasonably could be expected to impair substantially the operations of the government.

Although these exceptions do not restrict GAO's basic rights of access under 31 U.S.C. 716(a), they do limit GAO's ability to compel the production of particular records through a court action.

RELEVANT CIA LEGISLATION

The CIA has broad authority to protect intelligence-related information but must keep the intelligence committees fully and currently informed of the intelligence activities of the United States.

50 U.S.C. 403–3(c)(6) and 403g: Section 403–3 requires the Director of the CIA to protect ''intelligence sources and methods from unauthorized disclosure. . . .'' Section 403g exempts the CIA from laws ''which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency. With the exception of unvouchered expenditures, CIA's disclosure of information to GAO would be an authorized and proper disclosure under 31 U.S.C. 716(a).

50 U.S.C. 403j: The CIA has broad discretion to use appropriated funds for various purposes (e.g., personal services, transportation, printing and binding, and purchases of firearms) without regard to laws and regulations relating to the expenditure of government funds. The statute also authorizes the Director to establish an unvouchered account for objects of a confidential, extraordinary, or emergency nature. We recognize that the CIA's unvouchered account authority constitutes an exception to GAO's audit and access authority, but this account deals with only a portion of CIA's funding activities.

50 U.S.C. 413: This section provides a method for maintaining congressional oversight over intelligence activities within the executive branch. The statute requires the President to ensure that the intelligence committees (the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence are kept fully and currently informed of U.S. intelligence activities.

REPORT LANGUAGE

Section 1 of the Act provides that the Act may be cited as the ''Intelligence Community Audit Act of 2006''.

Section 2(a) of the Act adds a new Section (3523a) to title 31, United States Code, with respect to the Comptroller General's authority to audit or evaluate activities of the intelligence community. New Section 3523a(b)(1) reaffirms that the Comptroller General possesses, under his existing statutory authority, the authority to perform audits and evaluations of financial transactions, programs, and activities of elements of the intelligence community and to obtain access to records for the purposes of such audits and evaluations. Such work could be done at the request of the congressional intelligence committees or any committee of jurisdiction of the House of Representatives or Senate (including the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate), or at the Comptroller General's initiative, pursuant to the existing authorities referenced in new Section 3523a(b)(1). New Section 3523a(b)(2) further provides that these audits and evaluations under the Comptroller General's existing authority may include, but are not limited to, matters relating to the management and administration of elements of the intelligence community in areas such as strategic planning, financial management, information technology, human capital, knowledge management, information sharing, and change management. These audits and evaluations would be accompanied by the safeguards that the Government Accountability Office (GAO) has in place to protect classified and other sensitive information, including physical security arrangements, classification and sensitivity reviews, and restricted distribution of certain products.

This reaffirmation is designed to respond to Executive Branch assertions that GAO does not have the authority to review activities of the intelligence community. To the contrary, GAO's current statutory audit and access authorities permit it to evaluate a wide range of activities in the intelligence community. To further ensure that GAO's authorities are appropriately construed in the future, the new Section 3523a(e), which is described below, makes clear that nothing in this or any other provision of law shall be construed as restricting or limiting the Comptroller General's authority to audit and evaluate, or obtain access to the records of, elements of the intelligence community absent specific statutory language restricting or limiting such audits, evaluations, or access to records.

New Section 3523a(c)(1) provides that Comptroller General audits or evaluations of intelligence sources and methods, or covert actions may be undertaken only upon the request of the Select Committee on Intelligence of the Senate, or the Permanent Select Committee on Intelligence of the House of Representatives, or the majority or the minority leader of the Senate or the House of Representatives. This limitation is intended to recognize the heightened sensitivity of audits and evaluations relating to intelligence sources and methods, or covert actions.

The new Section 3523a(c)(2)(A) provides that the results of such audits or evaluations under Section 3523a(c) may be disclosed only to the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community. Since the methods GAO uses to communicate the results of its audits or evaluations vary, this provision restricts the dissemination of GAO's findings under Section 3523a(c), whether through testimony, oral briefings, or written reports, to only the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community. Similarly, under new Section 3523a(c)(2)(B), the Comptroller General may only provide information obtained in the course of such an audit or evaluation to the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community.

The new Section 3523a(c)(3)(A) provides that notwithstanding any other provision of law, the Comptroller General may inspect records of any element of the intelligence community relating to intelligence sources and methods, or covert actions in order to perform audits and evaluations pursuant to Section 3523a(c). The Comptroller General's access extends to any records which belong to, or are in the possession and control of, the element of the intelligence community regardless of who was the original owner of such information. Under new Section 3523a(c)(3)(B), the Comptroller General may enforce the access rights provided under this subsection pursuant to section 716 of title 31. However, before the Comptroller General files a report pursuant to 31 U.S.C. 716(b)(1), the Comptroller General must consult with the original requestor concerning the Comptroller General's intent to file a report.

The new Section 3523a(c)(4) reiterates the Comptroller General's obligations to protect the confidentiality of information and adds special safeguards to protect records and information obtained from elements of the intelligence community for audits and evaluations performed under Section 3523a(c). For example, pursuant to new Section 3523a(c)(4)(B), the Comptroller General is to maintain on site, in facilities furnished by the element of the intelligence community subject to audit or evaluation, all workpapers and records obtained for the audit or evaluation. Under new Section 3523a(c)(4)(C), the Comptroller General is directed, after consulting with the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, to establish procedures to protect from unauthorized disclosure all classified and other sensitive information furnished to the Comptroller General under Section 3523a(c). Under new Section 3523a(c)(4)(D), prior to initiating an audit or evaluation under Section 3523a(c), the Comptroller General shall provide the Director of National Intelligence and the head of the relevant element of the intelligence community with the name of each officer and employee of the Government Accountability Office who has obtained appropriate security clearances.

The new Section 3523a(d) provides that elements of the intelligence community shall cooperate fully with the Comptroller General and provide timely responses to Comptroller General requests for documentation and information.

The new Section 3523a(e) makes clear that nothing in this or any other provision of law shall be construed as restricting or limiting the Comptroller General's authority to audit and evaluate, or obtain access to the records of, elements of the intelligence community absent specific statutory language restricting or limiting such audits, evaluations, or access to records.

S. 3968

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 ''Intelligence Community Audit Act of 2006''.

SEC. 2. COMPTROLLER GENERAL AUDITS AND EVALUATIONS OF ACTIVITIES OF ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) REAFFIRMATION OF AUTHORITY; AUDITS OF INTELLIGENCE COMMUNITY ACTIVITIES.—Chapter 35 of title 31, United States Code, is amended by inserting after section 3523 the following:

''§ 3523a. Audits of intelligence community; audit requesters

''(a) In this section, the term 'element of the intelligence community' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

''(b) Congress finds that—

''(1) the authority of the Comptroller General to perform audits and evaluations of financial transactions, programs, and activities of elements of the intelligence community under sections 712, 717, 3523, and 3524, and to obtain access to records for purposes of such audits and evaluations under section 716, is reaffirmed; and

''(2) such audits and evaluations may be requested by any committee of jurisdiction (including the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate), and may include but are not limited to matters relating to the management and administration of elements of the intelligence community in areas such as strategic planning, financial management, information technology, human capital, knowledge management, information sharing (including information sharing by and with the Department of Homeland Security), and change management.

''(c)(1) The Comptroller General may conduct an audit or evaluation of intelligence sources and methods or covert actions only upon request of the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence of the House of Representatives, or the majority or the minority leader of the Senate or the House of Representatives.

''(2)(A) Whenever the Comptroller General conducts an audit or evaluation under paragraph (1), the Comptroller General shall provide the results of such audit or evaluation only to the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community.

''(B) The Comptroller General may only provide information obtained in the course of an audit or evaluation under paragraph (1) to the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community.

''(3)(A) Notwithstanding any other provision of law, the Comptroller General may inspect records of any element of the intelligence community relating to intelligence sources and methods, or covert actions in order to conduct audits and evaluations under paragraph (1).

''(B) If in the conduct of an audit or evaluation under paragraph (1), an agency record is not made available to the Comptroller General in accordance with section 716, the Comptroller General shall consult with the original requestor before filing a report under subsection (b)(1) of that section.

''(4)(A) The Comptroller General shall maintain the same level of confidentiality for a record made available for conducting an audit under paragraph (1) as is required of the head of the element of the intelligence community from which it is obtained. Officers and employees of the Government Accountability Office are subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the intelligence community element that provided the Comptroller General or officers and employees of the Government Accountability Office with access to such records.

''(B) All workpapers of the Comptroller General and all records and property of any element of the intelligence community that the Comptroller General uses during an audit or evaluation under paragraph (1) shall remain in facilities provided by that element of the intelligence community. Elements of the intelligence community shall give the Comptroller General suitable and secure offices and furniture, telephones, and access to copying facilities, for purposes of audits and evaluations under paragraph (1).

''(C) After consultation with the Select Committee on Intelligence of the Senate and with the Permanent Select Committee on Intelligence of the House of Representatives, the Comptroller General shall establish procedures to protect from unauthorized disclosure all classified and other sensitive information furnished to the Comptroller General or any representative of the Comptroller General for conducting an audit or evaluation under paragraph (1).

''(D) Before initiating an audit or evaluation under paragraph (1), the Comptroller General shall provide the Director of National Intelligence and the head of the relevant element with the name of each officer and employee of the Government Accountability Office who has obtained appropriate security clearance and to whom, upon proper identification, records, and information of the element of the intelligence community shall be made available in conducting the audit or evaluation.

''(d) Elements of the intelligence community shall cooperate fully with the Comptroller General and provide timely responses to Comptroller General requests for documentation and information.

''(e) Nothing in this section or any other provision of law shall be construed as restricting or limiting the authority of the Comptroller General to audit and evaluate, or obtain access to the records of, elements of the intelligence community absent specific statutory language restricting or limiting such audits, evaluations, or access to records.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 35 of title 31, United States Code, is amended by inserting after the item relating to section 3523 the following:

''3523a. Audits of intelligence community; audits and requesters.''.

By Mr. OBAMA (for himself and Mrs. CLINTON):

S. 3969. A bill to amend the Toxic Substances Control Act to assess and reduce the levels of lead found in child-occupied facilities in the United States, and for other purposes; to the Committee on Environment and Public Works.

Mr. OBAMA. Mr. President, I rise today to introduce the Lead Poisoning Reduction Act of 2006. I am pleased that Senator CLINTON is joining me in this effort.

Lead is a poison we have known about for a long time. Studies have long linked lead exposure to learning disabilities, behavioral problems, and, at very high levels, seizures, coma, and even death. Lead is particularly damaging to children because their developing brains are more susceptible to harm.

A study released last week found that children with even very low levels of lead exposure have four times the risk of attention-deficit hyperactivity disorder (ADHD) than normal and that childhood lead exposure leads to 290,000 cases of ADHD.

The major source of lead exposure among U.S. children is lead-based paint. In 1978, the Consumer Product Safety Commission recognized this hazard and banned leaded paints. But today, 30 years later, about 24 million older homes, and millions of other buildings, have deteriorating lead paint and elevated levels of lead-contaminated dust.

We know how children are typically exposed. We know what the health effects from exposure are. And we know how to fix the source of the exposure. The one thing we don't know how to do is reverse the brain damage once it has occurred. So, otherwise healthy children wind up facing a lifetime of disadvantage because we have failed to eradicate this insidious problem.

Every day, millions of American parents drop their children off at child care facilities on their way to work. Nearly 12 million children under age 5 spend 40 hours a week in child care. And every day, many of those children in older buildings may be exposed to lead poisoning.

While many child care facilities have taken steps to ensure sources of potential lead exposure are eliminated, too many operate in older buildings that need repair or remodeling to ensure these sources are contained. These facilities may be in wealthy communities, but more often than not, they are in poor communities where parents have few choices for child care. I'm sure many of these facilities would fix the problem if they only had the resources.

The Lead Poisoning Reduction Act protects our children in two ways.

First, the bill establishes a five-year, $42.6 million grant program to help communities reduce lead exposure in facilities such as day care centers, Head Start centers, and kindergarten classrooms where young children spend a great deal of time. Communities

could use the funds for testing, abatement, and communicating the risks of lead to children and parents.

Second, the bill requires the Environmental Protection Agency to establish regulations to eliminate sources of lead exposure in child care facilities, starting with new facilities in 18 months and all facilities in five years.

It's a straightforward fix to a straightforward problem. I hope my colleagues join me in helping to create lead-safe environments in all child care facilities.

Mrs. CLINTON. Mr. President, I join my colleague, Senator OBAMA, in support of the Lead Poisoning Reduction Act of 2006. This legislation would close an important gap in primary prevention strategies by providing critical resources to make all nonhome-based childcare facilities and Head Start Programs lead-safe within 5 years.

Lead is highly toxic and continues to be a serious, persistent, and entirely preventable threat to the health and well-being of our children. Lead poisoning continues to pose an unacceptable environmental health risk to infants, children, and pregnant women in the United States, particularly in minority and low-income communities. A CDC survey conducted between 1999 and 2002, estimated that 310,000 American children under 6 were at risk for exposure to harmful lead levels in United States. Childhood lead poisoning has been linked to impaired growth and function of vital organs and problems with intellectual and behavioral development. A study from the New England Journal of Medicine also found that children suffered up to a 7.4-percent decrease in IQ at lead levels that CDC considers safe. At very high levels, lead poisoning can cause seizures, coma, and even death.

It is critical that we remove lead hazards where our children live, learn, and play. We especially need to eliminate these risks and hazards that continue to persist in childcare facilities and schools. Nearly 12 million children under age 5 spend 40 hours a week in childcare. Lead paint in older buildings is a primary source of exposure, but significant lead exposure can also come from tap water. The Department of Housing and Urban Development estimates that about 14,200 childcare facilities have considerable lead-based hazards present. In addition, a recent report by the U.S. Government Accountability Office, GAO, identified significant, systemic problems with the way in which the Environmental Protection Agency, EPA, monitors and regulates the levels of lead in our Nation's drinking water, including a complete lack of reliable data on which to make assessments and decisions. The GAO study found that few schools and childcare facilities nationwide have tested their water for lead, and no focal point exists at either the national or State level to collect and analyze test results. Few States have comprehensive programs to detect and remediate lead in drinking water at schools and childcare facilities. Only five States have required general lead testing for schools, and of those, only four require childcare facilities to test for lead when obtaining or renewing their licenses. Almost half the States reported having no lead efforts of any kind. State and local officials need more information on the pervasiveness of lead contamination to know how best to address the issue.

Each year in New York State an additional 10,000 children under the age of 6 years are newly identified as having elevated blood lead levels, and over 200,000 children in New York have had documented lead poisoning between 1992 to 2004. Exposure to lead results in increased expenses each year for New York in the form of special educational and other educational expenses, medical care for lead-poisoned children, and expenditures for delinquent youth and others needing special supervision. It is estimated that these increased expenses, as well as lost earnings, exceed $4 billion annually. New York City and Rochester have been at the forefront of grassroots efforts to combat lead poisoning, and this bill would provide important resources and incentives to implement their model programs nationwide.

By Mr. GRASSLEY (for himself, Mr. ISAKSON, Mr. CHAMBLISS, Mr. BURR, and Ms. MURKOWSKI):

S. 3972. A bill to amend title XXI of the Social Security Act to reduce funding shortfalls for the State Children's Health Insurance Program (SCHIP) for fiscal year 2007; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am pleased to introduce the ''Fiscal Accountability, Integrity and Responsibility in SCHIP'' or FAIR–SCHIP Act. I am pleased to be joined in this effort by Senator JOHNNY ISAKSON, R–GA, Senator SAXBY CHAMBLESS, R–GA, SENATOR RICHARD BURR, R–NC and Senator LISA MURKOWSKI, R–AK. This legislation is a targeted one year approach to addressing a looming problem in the State Children's Health Insurance Program (SCHIP).

According to estimates prepared by the Congressional Research Service, as many as 17 States will run out of SCHIP funds in 2007. Several States will run shortfalls in the hundreds of millions of dollars. These shortfalls will result in States having to limit the coverage available to low-income children. These shortfalls are deep and they will get deeper.

One of my principal objectives in the 110th Congress will be to reauthorize the SCHIP program. There are a number of compelling issues associated with the SCHIP program that will require thoughtful review and discussion by Members of Congress.

Reauthorization will not be easy. Legislating on an issue as complex and sensitive as children's health care is never easy. However, if the Congress does not act to address some of these policies as well as the SCHIP formula, one thing is certain: The current State entitlement is not sufficient, in the long term, to cover the costs of maintaining the current level of coverage provided by the States.

I am aware of legislation introduced in the Senate and the House that would simply appropriate additional funds to cover the SCHIP shortfalls. This is not a viable option.

If the Congress perpetuates a scenario where the SCHIP funding formula is not improved and other programmatic changes are not enacted, yet State SCHIP shortfalls covered year after year, there will be no practical difference between SCHIP, which is a capped allotment, and Medicaid, which is an open ended entitlement.

I do not believe there is majority support for turning the SCHIP program into an entitlement program. I am concerned what going down a path that essentially does treat SCHIP as a de facto entitlement program means for the long standing viability of SCHIP. Therefore, the approach envisioned in FAIR–SCHIP takes a balanced, moderate approach to addressing this issue.

FAIR–SCHIP recognizes that additional resources will be needed if States are to be able to continue to provide the current level of coverage for children.

FAIR–SCHIP also recognizes that funding under the SCHIP programs can be more equitably distributed.

FAIR–SCHIP takes a moderate, balanced approach by appropriating approximately half of the estimated Fiscal Year 07 shortfall.

FAIR–SCHIP also includes a modest redistribution scenario that would occur in the second half of the fiscal year and only affect the 05 allotments of States which have a 200 percent surplus of SCHIP funds, relative to their projected 07 spending.

FAIR–SCHIP is a fiscally sound, responsible approach to the issue of SCHIP shortfalls that will position the Congress to achieve important programmatic improvements in the 110th Congress, when the SCHIP program will need to be reauthorized.

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

I hope my colleagues will support the approach envisioned by FAIR–SCHIP.

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

S. 3972

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fiscal Accountability, Integrity, and Responsibility in SCHIP Act of 2006''or the ''FAIR-SCHIP Act of 2006''.

SEC. 2. FUNDING OF THE SCHIP ALLOTMENT SHORTFALLS FOR FISCAL YEAR 2007.

(a) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

''(h) SPECIAL RULES TO ADDRESS FISCAL YEAR 2007 SHORTFALLS.—

''(1) INITIAL DOWN PAYMENT ON SHORTFALL FOR FISCAL YEAR 2007.—The provisions of subsection (d) shall apply with respect to fiscal year 2007 in the same manner as they apply to fiscal year 2006, except that, for purposes of this paragraph—

''(A) any reference to 'fiscal year 2006', 'December 16, 2005', '2005', '2004', 'September 30, 2006' and 'October 1, 2006' shall be deemed a reference to 'fiscal year 2007', 'December 16 2006', '2006', '2005', 'September 30, 2007' and 'October 1, 2007' respectively;

''(B) there shall be substituted for the dollar amount specified in subsection (d)(1), and shall be treated as the amount appropriated under such subsection, $450,000,000;

''(C) paragraphs (3)(B) and (4) of subsection (d) shall not apply (and paragraph (4) of this subsection shall apply in lieu of paragraph (4) of such subsection);

''(D) if the dollar amount specified in subparagraph (B) is not at least equal to the total of the shortfalls described in subsection (d)(2) (as applied under this paragraph), the amounts under subsection (d)(3) (as applied under this paragraph) shall be ratably reduced.

''(2) FUNDING REMAINDER OF SHORTFALL FOR FISCAL YEAR 2007 THROUGH REDISTRIBUTION OF CERTAIN UNUSED FISCAL YEAR 2005 ALLOTMENTS.—

''(A) IN GENERAL.—Subject to subparagraph (C), the Secretary shall provide for a redistribution under subsection (f) from amounts made available for redistribution under paragraph (3), to each shortfall State described in subparagraph (B) that is one of the 50 States or District of Columbia, such amount as the Secretary determines will eliminate the estimated shortfall described in such subparagraph for the State.

''(B) SHORTFALL STATE DESCRIBED.—For purposes of this paragraph, a shortfall State described in this subparagraph is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary as of March 31, 2007, that the projected expenditures under such plan for such State for fiscal year 2007 will exceed the sum of—

''(i) the amount of the State's allotments for each of fiscal years 2005 and 2006 that will not be expended by the end of fiscal year 2006;

''(ii) the amount, if any, that is to be redistributed to the State during fiscal year 2007 in accordance with subsection (f) (other than under this paragraph);

''(iii) the amount of the State's allotment for fiscal year 2007; and

''(iv) the amount of any additional allotment to the State under paragraph (1).

''(C) PRORATION RULE.—If the amounts available for redistribution under paragraph (3) are less than the total amounts computed under subparagraph (A), the amount computed under subparagraph (A) for each shortfall State shall be reduced proportionally.

''(3) TREATMENT OF CERTAIN STATES WITH FISCAL YEAR 2005 ALLOTMENTS UNEXPENDED AT THE END OF THE FIRST HALF OF FISCAL YEAR 2007.—

''(A) IDENTIFICATION OF STATES.—The Secretary—

''(i) shall identify those States that received an allotment for fiscal year 2005 under subsection (b) which have not expended all of such allotment by March 31, 2007; and

''(ii) for each such State shall determine—

''(I) the portion of such allotment that was not so expended by such date; and

''(II) whether the State is a described in subparagraph (B).

''(B) STATES WITH FUNDS IN EXCESS OF 200 PERCENT OF NEED.—A State described in this subparagraph is a State for which the Secretary determines, as of March 31, 2007, the total of all available allotments under this title as of such date, is at least equal to 200 percent of the total projected expenditures under this title for the State for fiscal year 2007.

''(C) REDISTRIBUTION AND LIMITATION ON AVAILABILITY.—

''(i) APPLICATION TO PORTION OF UNUSED ALLOTMENTS FOR CERTAIN STATES.—In the case of a State identified under subparagraph (A)(i) that is also described in subparagraph (B), notwithstanding subsection (e), the percentage specified by the Secretary in clause (ii) of the amount described in subparagraph (A)(ii)(I) shall not be available for expenditure on or after April 1, 2007.

''(ii) PERCENTAGE SPECIFIED.—The Secretary shall specify a percentage which—

''(I) does not exceed 75 percent; and

''(II) when applied under clause (i) results in the total of the amounts under such clause equaling the total of the amounts under paragraph (2)(A).

''(4) USE OF ADDITIONAL ALLOTMENT.—Additional allotments provided under this subsection are only available for amounts expended under a State plan approved under this title for child health assistance for targeted low-income children or child health assistance or other health benefits coverage for pregnant women.

''(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the determinations made under paragraphs (2) and (3) as necessary on the basis of the amounts reported by States not later than November 30, 2007, on CMS Form 64 or CMS Form 21, as the case may be and as approved by the Secretary, but in no case may the percentage specified in paragraph (3)(C)(ii) exceed 75 percent.

''(6) 1-YEAR AVAILABILITY; NO REDISTRIBUTION OF UNEXPENDED ADDITIONAL ALLOTMENTS.—

''(A) IN GENERAL.—Notwithstanding subsections (e) and (f), amounts allotted or redistributed to a State pursuant to this subsection for fiscal year 2007 shall only remain available for expenditure by the State through September 30, 2007, and any amounts of such allotments or redistributions that remain unexpended as of such date, shall not be subject to redistribution under subsection (f). Nothing in the preceding sentence shall be construed as limiting the ability of the Secretary to adjust the determinations made under paragraphs (2) and (3) in accordance with paragraph (5).

''(B) REVERSION UPON TERMINATION OF RETROSPECTIVE ADJUSTMENT PERIOD.—Any amounts of such allotments or redistributions that remain unexpended as of September 30, 2007, shall revert to the Treasury on December 31, 2007.''.

(b) EXTENDING AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—Section 2105(g)(1)(A) of such Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking ''or 2005'' and inserting ''2005, 2006, or 2007''.

By Mr. BINGAMAN:

S. 3975. A bill to amend the Public Health Service Act to provide grants to promote positive health behaviors in women and children; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today, entitled the ''Community Health Workers Act of 2006,'' would improve access to health education and outreach services to women in medically underserved areas, including the U.S. border region along New Mexico.

Lack of access to adequate health care and health education is a significant problem on the southern New Mexico border. While the access problem is in part due to a lack of insurance, it is also attributable to non-financial barriers to access. These barriers include a shortage of physicians and other health professionals, and hospitals; inadequate transportation; a shortage of bilingual health information and health providers; and culturally insensitive systems of care.

This legislation would help to address the issue of access by providing $15 million per year for a three year period in grants to State, local, and tribal organizations, including community health centers and public health departments, for the purpose of hiring community health workers to provide health education, outreach, and referrals to women and families who otherwise would have little or no contact with health care services.

Recognizing factors such as poverty and language and cultural differences that often serve as barriers to health care access in medically underserved populations, community health workers are in a unique position to improve health outcomes and quality of care for groups that have traditionally lacked access to adequate services. They often serve as ''community specialists'' and are members of the communities in which they work. As such they can effectively serve hard-to-reach populations.

A shining example of how community health workers serve their communities, a group of so-called ''promotoras'' in Dona Ana County were quickly mobilized during a recent flood emergency in rural New Mexico. These community health workers assisted in the disaster recovery efforts by partnering with FEMA to find, inform and register flood victims for Federal disaster assistance. Their personal networks and knowledge of the local culture, language, needs, assets, and barriers greatly enhanced FEMA's community outreach efforts. The promotoras of Dona Ana County demonstrate the important role community health workers could play in communities across the nation, including increasing the effectiveness of new initiatives in homeland security and emergency preparedness, and in implementing risk communication strategies.

The positive benefits of the community health worker model also have been documented in research studies. Research has shown that community health workers have been effective in increasing the utilization of health preventive services such as cancer screenings and medical follow up for elevated blood pressure and improving enrollment in publicly funded health insurance programs. In the case of uninsured children, a study by Dr. Glenn Flores, ''Community-Based Case Management in Insuring Uninsured Latino Children,'' published in the December

2005 issue of Pediatrics found that uninsured children who received community-based case management were eight times more likely to obtain health insurance coverage than other children involved in the study because case workers were employed to address typical barriers to access, including insufficient knowledge about application processes and eligibility criteria, language barriers and family mobility issues, among others. This study confirms that community health workers could be highly effective in reducing the numbers of uninsured children, especially those who are at greatest risk for being uninsured. Preliminary investigation of a community health workers project in New Mexico similarly suggests that community health workers could be useful in improving enrollment in Medicaid and the Children's Health Insurance Program, SCHIP.

According to a 2003 Institute of Medicine, IOM, report entitled, ''Unequal Treatment: Confronting Racial and Ethnic Disparities in Healthcare,'' community health workers offer promise as a community-based resource to increase racial and ethnic minorities' access to health care and to serve as a liaison between healthcare providers and the communities they serve.''

Although the community health worker model is valued in the New Mexico border region as well as other parts of the country that encounter challenges of meeting the health care needs of medically underserved populations, these programs often have difficulty securing adequate financial resources to maintain and expand upon their services. As a result, many of these programs are significantly limited in their ability to meet the ongoing and emerging health demands of their communities.

The IOM report also noted that ''programs to support the use of community health workers . . . especially among medically underserved and racial and ethnic minority populations, should be expanded, evaluated, and replicated.''

I am introducing this legislation to increase resources for a model that has shown significant promise for increasing access to quality health care and health education for families in medically underserved communities.

I ask unanimous consent that the text of the bill and Dr. Flores' study on community-based case management be printed in the RECORD.

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

S. 3975

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 ''Community Health Workers Act of 2006''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Chronic diseases, defined as any condition that requires regular medical attention or medication, are the leading cause of death and disability for women in the United States across racial and ethnic groups.

(2) According to the National Vital Statistics Report of 2001, the 5 leading causes of death among Hispanic, American Indian, and African-American women are heart disease, cancer, diabetes, cerebrovascular disease, and unintentional injuries.

(3) Unhealthy behaviors alone lead to more than 50 percent of premature deaths in the United States.

(4) Poor diet, physical inactivity, tobacco use, and alcohol and drug abuse are the health risk behaviors that most often lead to disease, premature death, and disability, and are particularly prevalent among many groups of minority women.

(5) Over 60 percent of Hispanic and African-American women are classified as overweight and over 30 percent are classified as obese. Over 60 percent of American Indian women are classified as obese.

(6) American Indian women have the highest mortality rates related to alcohol and drug use of all women in the United States.

(7) High poverty rates coupled with barriers to health preventive services and medical care contribute to racial and ethnic disparities in health factors, including premature death, life expectancy, risk factors associated with major diseases, and the extent and severity of illnesses.

(8) There is increasing evidence that early life experiences are associated with adult chronic disease and that prevention and intervention services provided within the community and the home may lessen the impact of chronic outcomes, while strengthening families and communities.

(9) Community health workers, who are primarily women, can be a critical component in conducting health promotion and disease prevention efforts in medically underserved populations.

(10) Recognizing the difficult barriers confronting medically underserved communities (poverty, geographic isolation, language and cultural differences, lack of transportation, low literacy, and lack of access to services), community health workers are in a unique position to reduce preventable morbidity and mortality, improve the quality of life, and increase the utilization of available preventive health services for community members.

(11) Research has shown that community health workers have been effective in significantly increasing health insurance coverage, screening and medical follow-up visits among residents with limited access or underutilization of health care services.

(12) States on the United States-Mexico border have high percentages of impoverished and ethnic minority populations: border States accommodate 60 percent of the total Hispanic population and 23 percent of the total population below 200 percent poverty in the United States.

SEC. 3. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

''SEC. 399P. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.

''(a) GRANTS AUTHORIZED.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and other Federal officials determined appropriate by the Secretary, is authorized to award grants to States or local or tribal units, to promote positive health behaviors for women in target populations, especially racial and ethnic minority women in medically underserved communities.

''(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may be used to support community health workers—

''(1) to educate, guide, and provide outreach in a community setting regarding health problems prevalent among women and especially among racial and ethnic minority women;

''(2) to educate, guide, and provide experiential learning opportunities that target behavioral risk factors including—

''(A) poor nutrition;

''(B) physical inactivity;

''(C) being overweight or obese;

''(D) tobacco use;

''(E) alcohol and substance use;

''(F) injury and violence;

''(G) risky sexual behavior; and

''(H) mental health problems;

''(3) to educate and guide regarding effective strategies to promote positive health behaviors within the family;

''(4) to educate and provide outreach regarding enrollment in health insurance including the State Children's Health Insurance Program under title XXI of the Social Security Act, Medicare under title XVIII of such Act and Medicaid under title XIX of such Act;

''(5) to promote community wellness and awareness; and

''(6) to educate and refer target populations to appropriate health care agencies and community-based programs and organizations in order to increase access to quality health care services, including preventive health services.

''(c) APPLICATION.—

''(1) IN GENERAL.—Each State or local or tribal unit (including federally recognized tribes and Alaska native villages) that desires to receive a grant under subsection (a) shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may require.

''(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

''(A) describe the activities for which assistance under this section is sought;

''(B) contain an assurance that with respect to each community health worker program receiving funds under the grant awarded, such program provides training and supervision to community health workers to enable such workers to provide authorized program services;

''(C) contain an assurance that the applicant will evaluate the effectiveness of community health worker programs receiving funds under the grant;

''(D) contain an assurance that each community health worker program receiving funds under the grant will provide services in the cultural context most appropriate for the individuals served by the program;

''(E) contain a plan to document and disseminate project description and results to other States and organizations as identified by the Secretary; and

''(F) describe plans to enhance the capacity of individuals to utilize health services and health-related social services under Federal, State, and local programs by—

''(i) assisting individuals in establishing eligibility under the programs and in receiving the services or other benefits of the programs; and

''(ii) providing other services as the Secretary determines to be appropriate, that may include transportation and translation services.

''(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to those applicants—

''(1) who propose to target geographic areas—

''(A) with a high percentage of residents who are eligible for health insurance but are uninsured or underinsured;

''(B) with a high percentage of families for whom English is not their primary language; and

''(C) that encompass the United States-Mexico border region;

''(2) with experience in providing health or health-related social services to individuals who are underserved with respect to such services; and

''(3) with documented community activity and experience with community health workers.

''(e) COLLABORATION WITH ACADEMIC INSTITUTIONS.—The Secretary shall encourage community health worker programs receiving funds under this section to collaborate with academic institutions. Nothing in this section shall be construed to require such collaboration.

''(f) QUALITY ASSURANCE AND COST-EFFECTIVENESS.—The Secretary shall establish guidelines for assuring the quality of the training and supervision of community health workers under the programs funded under this section and for assuring the cost-effectiveness of such programs.

''(g) MONITORING.—The Secretary shall monitor community health worker programs identified in approved applications and shall determine whether such programs are in compliance with the guidelines established under subsection (f).

''(h) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to community health worker programs identified in approved applications with respect to planning, developing, and operating programs under the grant.

''(i) REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under subsection (a), the Secretary shall submit to Congress a report regarding the grant project.

''(2) CONTENTS.—The report required under paragraph (1) shall include the following:

''(A) A description of the programs for which grant funds were used.

''(B) The number of individuals served.

''(C) An evaluation of—

''(i) the effectiveness of these programs;

''(ii) the cost of these programs; and

''(iii) the impact of the project on the health outcomes of the community residents.

''(D) Recommendations for sustaining the community health worker programs developed or assisted under this section.

''(E) Recommendations regarding training to enhance career opportunities for community health workers.

''(j) DEFINITIONS.—In this section:

''(1) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

''(2) COMMUNITY SETTING.—The term 'community setting' means a home or a community organization located in the neighborhood in which a participant resides.

''(3) MEDICALLY UNDERSERVED COMMUNITY.—The term 'medically underserved community' means a community identified by a State—

''(A) that has a substantial number of individuals who are members of a medically underserved population, as defined by section 330(b)(3); and

''(B) a significant portion of which is a health professional shortage area as designated under section 332.

''(4) SUPPORT.—The term 'support' means the provision of training, supervision, and materials needed to effectively deliver the services described in subsection (b), reimbursement for services, and other benefits.

''(5) TARGET POPULATION.—The term 'target population' means women of reproductive age, regardless of their current childbearing status.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2007, 2008, and 2009.''.

A RANDOMIZED, CONTROLLED TRIAL OF THE EFFECTIVENESS OF COMMUNITY-BASED CASE MANAGEMENT IN INSURING UNINSURED LATINO CHILDREN

(By Flores, MD; Milagros Abreu, MD; Christine E. Chaisson, MPH; Alan Meyers, MD, MPH; Ramesh C. Sachdeva, MD, PhD, MBA; Harriet Fernandez, BA; Patricia Francisco, BA; Beatriz Diaz, BA; Ana Milena Diaz, BA; and Iris Santos-Guerrero, BA)

Abstract. Background. Lack of health insurance adversely affects children's health. Eight million U.S. children are uninsured, with Latinos being the racial/ethnic group at greatest risk for being uninsured. A randomized, controlled trial comparing the effectiveness of various public insurance strategies for insuring uninsured children has never been conducted.

Objective. To evaluate whether case managers are more effective than traditional methods in insuring uninsured Latino children.

Design. Randomized, controlled trial conducted from May 2002 to August 2004.

Setting and Participants. A total of 275 uninsured Latino children and their parents were recruited from urban community sites in Boston.

Intervention. Uninsured children were assigned randomly to an intervention group with trained case managers or a control group that received traditional Medicaid and State Children's Health Insurance Program (SCHIP) outreach and enrollment. Case managers provided information on program eligibility, helped families complete insurance applications, acted as a family liaison with Medicaid/SCHIP, and assisted in maintaining coverage.

Main Outcome Measures. Obtaining health insurance, coverage continuity, the time to obtain coverage, and parental satisfaction with the process of obtaining insurance for children were assessed. Subjects were contacted monthly for 1 year to monitor outcomes by a researcher blinded with respect to group assignment.

Results. One hundred thirty-nine subjects were assigned randomly to the intervention group and 136 to the control group. Intervention group children were significantly more likely to obtain health insurance (96% vs 57%) and had less than 8 times the adjusted odds (odds ratio: 7.78; 95% confidence interval: 5.20–11.64) of obtaining insurance. Seventy-eight percent of intervention group children were insured continuously, compared with 30% of control group children. Intervention group children obtained insurance significantly faster (mean: 87.5 vs 134.8 days), and their parents were significantly more satisfied with the process of obtaining insurance.

Conclusions. Community-based case managers are more effective than traditional Medicaid/SCHIP outreach and enrollment in insuring uninsured Latino children. Case management may be a useful mechanism to reduce the number of uninsured children, especially among high-risk populations. Pediatrics 2005; 116:1433–11441; insurance, Latino, Medicaid, medically uninsured, child health services, community health services.

There were 8.4 million children without health insurance coverage in the United States in 2003, equivalent to 11.4% of children 0 to 17 years old. Latino children have the highest risk of being uninsured of any racial/ethnic group of U.S. children, with 21% of Latino children being uninsured, compared with 7% of non-Latino white children, 14% of African American children, and 12% of Asian/Pacific Islander children. Other documented risk factors among children for having no insurance include poverty and noncitizen status of the parent and child.

Compared with children who have health insurance, uninsured children have less access to health care, are less likely to have a regular source of primary care, and use medical and dental care less often. Uninsured children are significantly more likely than insured children to be in poor or fair health; to not have a regular physician or other medical provider, to have made no medical visit in the past year, to be immunized inadequately, to experience adverse hospital outcomes as newborns, and to have higher mortality rates associated with trauma and coarctation of the aorta.

To expand insurance coverage for uninsured children, Congress enacted the State Children's Health Insurance Program (SCHIP) in 1997. This program targets uninsured children <19 years old with family incomes <200% of the federal poverty level who are ineligible for Medicaid and are not covered by private insurance. SCHIP is a matched block grant program that allocates more than $39 billion in federal funds over 10 years. It provides for states to increase coverage of uninsured children by raising the income limits of the Medicaid program so that more children are eligible, by creating a new state insurance program separate from Medicaid, or by implementing both measures. Multiple studies have documented that previously uninsured children experience significant increases in both access to health care and more appropriate use of services after enrollment in SCHIP and Medicaid.

Since the inception of SCHIP enrollment in January 1998, SCHIP has provided coverage to 3.9 million children, and the proportion of uninsured US children has decreased from 15.4 percent to 11.4 percent. In the past 4 years, however, the numbers and proportions of uninsured children essentially have not changed, wavering between 8.4 and 8.6 million and 11.4 percent to 11.9 percent, respectively. It has been estimated that well over one half of uninsured children (~5 million) are eligible for Medicaid or SCHIP, which suggests that more-effective outreach and enrollment strategies are needed. Indeed, recent research indicates that SCHIP may be failing to reach the ''hardest-to-reach'' subpopulations of uninsured children, such as Latinos and those who have never been insured.

A randomized, controlled trial has never been performed comparing traditional SCHIP and Medicaid outreach and enrollment versus alternative strategies in terms of their effectiveness in insuring uninsured children. Recent research revealed that the parents of uninsured Latino children viewed community-based case managers as an acceptable and helpful intervention for families seeking to insure their uninsured children. The aim of this study, therefore, was to conduct a randomized, controlled trial comparing community-based case management

with traditional SCHIP and Medicaid outreach and enrollment with respect to their effectiveness in insuring uninsured Latino children.

METHODS

Study Participants

Enrollment occurred from May 14, 2002, to September 30, 2003. Study participants were uninsured Latino children and their parents from 2 communities in the greater Boston area confirmed in prior research to have large proportions of both uninsured children and Latino children, ie, East Boston, where 37 percent of Latino children were found to be uninsured in prior studies and 39 percent of the population is Latino, and Jamaica Plain, where 27 percent of Latino children were found to be uninsured in prior studies and 24 percent of the population is Latino. Eligibility criteria included the following: (1) the child was 0 to 18 years old, (2) the child had no health insurance coverage and had been uninsured for ≥ 3 months (unless the child was an infant who had never been insured), (3) the parent identified her or his uninsured child's ethnicity as Latino, (4) the parent's primary language was English or Spanish, and (5) the parent was willing to be contacted monthly by telephone or through a home visit by research personnel (if no functioning telephone was present in the household). The focus of the intervention was Latino children because they are the racial/ethnic group of US children at greatest risk for being uninsured. When > 1 child in a family was uninsured, the youngest child was enrolled in the study as the ''index'' child (to ensure consistency), and data were collected only for that child.

Study participants were recruited primarily from the following community sites in East Boston and Jamaica Plain, which were confirmed in prior studies to have many eligible potential participants willing to take part in research: supermarkets, bodegas, self-service laundries, beauty salons, and churches. The remaining participants were recruited through referral by other participants and in response to notices posted at consulates and schools. Community sites for recruitment were selected to obtain samples of parents consisting of both documented and undocumented families in proportions reflecting the population in each community. This sampling method was chosen because traditional census block methods have the potential to undercount undocumented children and their families, given their fear of deportation when a stranger appears at the front door of a dwelling. The primary caretaker (herein referred to as the parent) of each uninsured child enrolled in the study received a $50 participation honorarium at enrollment and a $5 honorarium after each monthly follow-up contact.

Written informed parental consent (in English or Spanish, depending on parental preference) was obtained for all children enrolled. To avoid selection bias against parents with low literacy levels, parents could request that the written informed consent form be read to them by research personnel, in English or Spanish, before they signed the form. The study was approved by the institutional review boards of Boston Medical Center and the Children's Hospital of Wisconsin.

Baseline Assessments

Parents of eligible children completed a brief, verbally administered screening questionnaire (in English or Spanish, according to parental preference) to confirm eligibility, determine relevant baseline characteristics, and record contact information. Data were collected on the ages of the child and parent, the self-identified Latino subgroup, the number of years the parent had lived in the United States, parental English proficiency, the highest level of parental education, the employment status of the parent and spouse (if currently living in the same household), the annual combined family income, and the citizenship status of the parent. Additional information collected included the names of the parent and child, whether there was a functioning telephone in the household, the telephone number, the preferred alternate telephone number of friends or family members (if there was no functioning telephone in the household), and the family's address.

Randomization

Subjects were allocated to the case management intervention group or the control group with a computer-generated, stratified, randomization process. Stratified randomization ensures that compared maneuvers in a randomized trial are distributed suitably among pertinent subgroups. Randomization was stratified by community site, with separate allocation schedules prepared for participants from East Boston and Jamaica Plain. The randomization schedule was prepared with the RANUNI function of SAS software, version 8.2. Sequentially numbered, opaque, sealed envelopes were produced for each community site, to ensure adequate allocation concealment. Potential participants were informed that, depending on the randomization, some parents would get a case manager free of charge, who would help families obtain health insurance for their children, whereas other parents would get no case manager and would just be contacted monthly. Bilingual Latina research assistants who did not participate in any aspect of preparation of randomization schedules opened the envelopes in the presence of enrolled participants, to inform them of their group assignment. Parents of uninsured children allocated to the intervention group immediately were assigned a bilingual, Latina, community-based, case manager (the research assistant who opened the randomization envelope with the parent became the case manager for children assigned to the intervention group).

Study Intervention

Case managers performed the following functions for intervention group children and their families: (1) providing information on the types of insurance programs available and the application processes; (2) providing information and assistance on program eligibility requirements; (3) completing the child's insurance application with the parent and submitting the application for the family; (4) expediting final coverage decisions with early frequent contact with the Division of Medical Assistance (DMA) (the state agency administering Medicaid in Massachusetts) or the Department of Public Health (DPH) (the state agency responsible for the Children's Medical Security Plan [CMSP], which insures nonMedicaid-eligible children in Massachusetts, including noncitizens); (5) acting as a family advocate by being the liaison between the family and DMA or DPH; and (6) rectifying with DMA and DPH situations in which a child was inappropriately deemed ineligible for insurance or had coverage inappropriately discontinued.

All case managers received a 1-day intensive training session on major obstacles to insuring uninsured children reported by Latino parents in 6 focus groups, parents' perspectives on how a case manager would be most useful in assisting with the process of insuring uninsured children, completing the Medical Benefit Request (the single application used to enroll children in MassHealth [Medicaid in Massachusetts] and CMSP), following up on submitted applications, obtaining final coverage decisions, disputing applications that were rejected or deemed ineligible, and the study protocol for subject recruitment, enrollment, consent, and follow-up monitoring. These training sessions were held in collaboration with representatives from DMA and DPH. Case managers also received the following training: a 1-week session on MassHealth eligibility requirements conducted by DMA, a 4–hour session on insurance eligibility rules conducted by a DPH outreach coordinator, a 2–hour session on MassHealth managed care programs and rules, a 1-day session on CMSP conducted by a DPH representative, a 1-day seminar on insurance programs and general assistance for impoverished families conducted by Health Care for All (a nonprofit organization dedicated to improving access to health care for all people in the state of Massachusetts), monthly DMA technical forums on MassHealth, and 1 week of supervised case manager training in the community.

The case managers were bilingual Latina women (of Dominican, Puerto Rican, Mexican, or Colombian ethnicity) between 22 and 36 years old. All had graduated from high school, some had obtained college degrees, and 1 had postgraduate training. None had any prior experience working as case managers insuring uninsured children. They were recruited through job listings posted in the employment offices of local Boston colleges and universities.

Control Group

Control group subjects received no intervention other than the SCHlP standard-of-care outreach and enrollment efforts administered by the MassHealth and CMSP programs. In Massachusetts, DMA has stated that they ''have made every effort to implement broad-based outreach activities designed to draw attention of families, teachers, child care workers, health providers, youth and community organizations to enhanced opportunities in the Commonwealth for obtaining health insurance.'' These efforts include the use of (1) direct mailings, press releases, newspaper inserts, health fairs, and door-to-door canvassing of target neighborhoods; (2) special attempts to reach Latino communities, such as radio advertisements on Spanish-language programs and bilingual flyers; (3) mini-grants to community organizations to provide outreach and assistance with applications; and (4) a toll-free telephone number for applying for health benefits.

Outcome Measures

Using standardized telephone interview methods, a trained bilingual Latina research assistant who was blinded to participant group assignment obtained outcome data from the parents monthly for 11 months, beginning 1 month after the date of study enrollment. The research assistant also made home visits to families that lacked telephones in the household and to those that did not respond to ≥10 attempted telephone contacts. To ensure ongoing rigorous blinding, we asked parents not to reveal their group assignment at any time to the outcomes research assistant (and the blinded research assistant reported that no parents revealed their child's group assignment during the study).

The primary outcome measure was the child obtaining health insurance coverage, as determined in an interview with the parent and confirmed, when possible, through inspection of the coverage notification letter received by the family. Three secondary outcomes also were assessed. The number of days from study enrollment to obtaining coverage was determined by using the interval between the date of the participant's study enrollment and the date on which the

parent reported being notified officially that the child had obtained coverage. Episodic coverage was defined as obtaining but then losing insurance coverage at any time during the 12–month follow-up period and was determined through parental report and inspection of written notification. Parental satisfaction with the process of obtaining coverage for the child was determined by asking the parent, ''How satisfied were you with the process of trying to obtain health insurance coverage for your child?'' Parents responded by using a 5–point Likert scale (1 = very satisfied, 2 = satisfied, 3 = uncertain, 4 = dissatisfied, and 5 = very dissatisfied). Overall parental satisfaction (regardless of whether insurance coverage was obtained) was determined during the final (11th month) follow-up contact. In addition, for the subset of children who obtained insurance, we assessed parental satisfaction during the first monthly follow-up contact after the child obtained coverage. All survey instruments were translated into Spanish and then back-translated by a separate observer, to ensure reliability and validity.

Statistical Analyses

All data analyses were performed as intention-to-treat analyses with SAS software, version 8.2. Prestudy calculations with the χ^2 test of equal proportions indicated that a sample size in each study arm of 90 participants provided 90 percent power to detect a 20 percent difference in the rates of insuring uninsured children (assuming that 10 percent of the control group and a minimum of 30 percent of the intervention group would be insured at the end of the study), allowing for 2-sided α = .05 and assuming ≥1 contact during the 12–month follow-up period. The initial combined target recruitment sample of N = 300 assumed that up to 40 percent of participants might drop out or be lost to follow-up monitoring; subsequently, recruitment was terminated at a sample size of N = 275 when the attrition rate was observed to be ~17 percnt.

The baseline sociodemographic characteristics of the intervention and control groups were compared with χ^2, Fisher's exact, and t tests. All reported P values are 2-tailed, with P < .05 considered statistically significant. Analyses of all outcomes, including obtaining insurance, time to insurance, and satisfaction with the process of obtaining insurance, were restricted to subjects who completed ≥1 follow-up visit.

Unadjusted analyses of intergroup differences in obtaining insurance coverage (any, continuous, and sporadic) were performed with the χ^2 test. We then fitted longitudinal regression models adjusting for time and intrasubject correlations by using generalized estimating equations implemented in PROC GENMOD in the SAS software. An independent working correlation model and empirical variance estimator were used for the generalized estimating equation model.

Multivariate analyses were performed to adjust for policy changes in the MassHealth and CMSP programs that occurred during the study. In November 2002, an enrollment cap was imposed on CMSP, which resulted in a waiting list of thousands of uninsured children, and premiums were increased for both CMSP and MassHealth. On February 1, 2003, the CMSP enrollment freeze was lifted, children on the waiting list began to be enrolled in the programs, and the premium increases were reduced (but not to levels before the November 2002 policy change). Study outcomes therefore were adjusted according to when the study participant was recruited, ie, before, during, or after the restrictive policy change (with construction of a 3-level variable for which the reference group was recruitment before the policy change). Because some subjects were not affected by the policy change, a second variable also was constructed, consisting of a dummy indicator for participants affected by the policy change. Both policy change variables were included in the adjusted models. On the basis of significant intergroup differences noted in bivariate analyses (for parental employment status and state insurance policy changes) and factors previously reported to be associated with being uninsured, the final adjusted model included the following covariates: the child's age, the family's poverty status (dichotomized as an annual combined family income that was 0–100% of the federal poverty threshold for the family [individualized for each family according to the number of people in the family unit and the number of related children <18 years old in the household] at the time of the study versus an income that was above the federal poverty threshold), parental citizenship status, parental employment status, and participant recruitment in relation to policy changes in state insurance coverage options available for uninsured children.

Unadjusted analyses of the number of days from study enrollment to obtaining coverage were performed for the subset of subjects who obtained insurance with the *t* test and then for all subjects with the Kaplan-Meier method. An adjusted cumulative incidence curve for the time to obtaining insurance was then plotted. Parental satisfaction with the process of trying to obtain insurance was analyzed by coding the 5-point Likert scale results both as a categorical variable (using the χ^2 test) and as a continuous variable (using the *t* test).

RESULTS

Participants

A total of 275 uninsured Latino children (and their families) who met all enrollment criteria were identified at the 2 study sites; 139 were assigned randomly to receive the community-based case management intervention and 136 were allocated to the control group. Figure 1 summarizes the enrollment, randomization, follow-up, and data analysis for all study participants. At least 1 monthly follow-up contact was made for 97% (n = 135) of the intervention group and 90% (n = 122) of the control group, and follow-up contact 1 year after study enrollment occurred successfully for 72% (n = 97) of the intervention group and 62% (n = 76) of the control group. The 18 subjects who were assigned randomly but then were lost to follow-up monitoring or withdrew before any follow-up contacts were more likely than other subjects to have been allocated to the control group (75% in the control group vs 48% in the control group among subjects with ≥1 follow-up contact; P < .04), but there were no significant differences between these 2 groups in any other characteristic, including the children's age, number of children in the family, annual combined family income, or parental age, citizenship, and employment status.

There were no baseline differences between the 2 groups in the mean ages of the children or parents; annual combined family income; number of children in the family; parental ethnicity, citizenship, English proficiency, marital status, or education; mean number of subject follow-up contacts; or recruitment site (Table 1). Case management group families, however, were more likely to have ≥1 parent employed full-time, and there was a statistically significant but minor intergroup difference in the proportions of subjects recruited before, during, and after the policy change in state coverage of uninsured children, with a slightly greater proportion of intervention group subjects being recruited before the policy change and slightly greater proportions of control group children being recruited while the restrictive policy change was in effect and after reestablishment of most of the prior policy. There also was a slight but statistically significant difference in the number of subjects lost to follow-up before any follow-up interviews (3% of the intervention group vs 9% of the control group; P = .04).

Insurance Coverage of Children

Children who received community-based case management were substantially more likely to obtain health insurance coverage compared with children in the control group (96% vs 57%; P < .0001) (Table 2). Intervention group children also were significantly more likely than control group children to be insured continuously throughout the 1-year follow-up period (78% vs 30%; P < .0001) and significantly less likely to be insured sporadically (18% vs 27%; P < .0001) or uninsured continuously (4% vs 43%; P < .0001) during the 1-year follow-up period.

The case management group was almost 8 times more likely than the control group to obtain insurance coverage (odds ratio: 7.78; 95% confidence interval: 5.20–11.64), after multivariate adjustment for potential confounders (the child's age, family income, parental citizenship, parental employment, and the period of policy change in state coverage of uninsured children) (Table 3). The adjusted incidence curve (Fig 2) shows that the marked difference between the groups in obtaining insurance coverage emerged at ~30 days and was sustained. Multivariate analyses also revealed that older children and adolescents and participants enrolled during the state freeze on CMSP had lower adjusted odds of obtaining insurance coverage (Table 3).

Time to Obtaining Insurance Coverage

Among the children who obtained health insurance, case management group children were insured substantially more quickly than control children (Table 2), with a mean of just under 3 months to obtain coverage, compared with a mean of >4.5 months for control children (87.5 ± 68 days for the intervention group vs 134.8 ± 102 days for the control group; P < .0001).

Parental Satisfaction With the Process of Obtaining Insurance

Parents of children in the intervention group were substantially more likely than parents of control group children to report being very satisfied with the process of obtaining health insurance for their child (80% vs 29%; P < .0001) (Table 2). Conversely, control group parents were considerably more likely than intervention group parents to report being very dissatisfied (14% vs 1%; P < .0001) or either dissatisfied or very dissatisfied (27% vs 3%; P < .0001) with the process of obtaining the child's insurance. Similar intergroup differences were observed when parental satisfaction was examined with Likert scale scores (where 1 = very satisfied and 5 = very dissatisfied); the mean satisfaction score for intervention group parents was significantly better than that for control group parents (1.3 vs 2.4; P < .0001). These significant intergroup satisfaction differences persisted when the analysis was restricted to subjects who had obtained insurance; at the first follow-up contact with parents of children who obtained insurance, 74% of intervention group parents but only 24% of control group parents reported being very satisfied with the process of obtaining coverage for their children (P < .0001), and the respective Likert scale satisfaction scores (mean ± SD) were 1.19 ± 0.46 vs 1.56 ± 0.72 (P < .0001).

DISCUSSION

Community-based case managers were found to be substantially more effective in obtaining health insurance for uninsured

Latino children than traditional Medicaid and SCHIP outreach and enrollment. In addition, compared with control group children, children in the case management group obtained insurance coverage sooner, were more likely to be insured continuously during 1 year of follow-up, and had parents who were much more satisfied with the process of obtaining coverage for their children.

Several characteristics of the case management intervention might account for its greater effectiveness in comparison with traditional Medicaid and SCHIP outreach and enrollment. First, case managers received training and focused their efforts on addressing barriers to insuring uninsured children that had been identified specifically by Latino families in prior research, including lack of knowledge about the application process and eligibility, language barriers, immigration issues, income cutoff values and verification, hassles, pending decisions, family mobility, misinformation from insurance representatives, and system problems. Second, case managers were active agents in the process of obtaining insurance coverage for children, assisting parents with application completion and acting as a family liaison and advocate whenever complications or setbacks occurred; traditional SCHIP and Medicaid outreach and enrollment tended to be much more passive, with outreach being heavily reliant on direct mailings, flyers, radio advertisements, and toll-free telephone numbers, but frequently with little or no assistance with the enrollment process. Third, the case managers were all bilingual, bicultural Latinas, which enhanced the cultural competency of the process and eliminated the often considerable language barriers faced by Latino parents seeking to insure their uninsured children. Therefore, the evidence-based, customized, active, culturally competent features in a community-based setting distinguish this intervention from traditional case management approaches and may account for its effectiveness.

The success of the community-based case management intervention is noteworthy, given a study population characterized by multiple factors known to place children at especially high risk for being uninsured. All intervention group children were Latino, 69 percent lived in poverty, 96 percent lived in families with incomes ≤200 percent of the federal poverty threshold, only 10 percent of parents were U.S. citizens, and one fifth of parents were unemployed. These findings suggest that community-based case management might prove especially useful in regions characterized by large proportions of uninsured children who are Latino, poor, immigrants, and have parents who are unemployed. Additional research is needed to determine whether community-based case managers would be equally effective in insuring uninsured children from other racial/ethnic groups and socioeconomic strata and those with parents who are primarily U.S. citizens and employed.

The effectiveness of community-based case management suggests that it could play an important role in states with large proportions of uninsured Latino children. In Texas, for example, where 21 percent of children (equivalent to 1.4 million children) are uninsured and an estimated 56 percent of uninsured children are Latino, community-based case management potentially could insure >750000 uninsured Latino children, assuming the 96 percent effectiveness of case management observed in this study. The study findings suggest that community-based case management has the potential to be highly effective in reducing the number of uninsured children even in states such as Texas where children from undocumented families are not eligible for insurance programs; community-based case management was found to be more effective than traditional Medicaid and SCHIP outreach and enrollment even after adjustment for parental citizenship, and more than one half of all uninsured U.S. children are eligible for Medicaid or SCHIP. As demonstrated in our study, however, in states with relatively small proportions of uninsured children, such as Massachusetts, case management might prove to be an important means of insuring the hardest-to-reach populations of uninsured children who have continued to be uninsured despite 7 years of SCHIP and Medicaid expansion, such as Latinos, poor children, and those with noncitizen parents. Our study findings may be of particular relevance for states such as Florida, which, like Massachusetts, has a SCHIP program (the Florida KidCare program) that covers both citizen and qualified noncitizen children.

Certain limitations of this study should be noted. The case management intervention was studied only among Latino children; therefore, the results may not pertain to other racial/ethnic groups. The Latino subgroups represented in the study sample were typical of an urban area in the Northeast, and the findings may not be generalizable to populations with greater proportions of Mexican Americans, in other regions of the country, or in rural or suburban areas. Because the study aim was to determine the effectiveness of the case management intervention, a cost analysis was not performed, and the cost-effectiveness of the intervention could not be determined. However, we did evaluate the feasibility of conducting a cost-effectiveness analysis by collecting pilot data on 10 consecutive families enrolled in the study. Pilot data collected included the number of missed school days, the number of missed work days, out-of-pocket expenses incurred during a child's illness, the number of emergency department and clinic visits, hospitalizations, and estimates of the costs of implementing the program, including personnel salaries and time spent implementing the intervention. These pilot data suggest that a formal cost-effectiveness analysis of the intervention is feasible for this population and could be performed in future studies. Future cost-effectiveness analyses of this intervention should consider comprehensive evaluation of direct, indirect, and opportunity costs associated with implementing the case management intervention in other communities and populations.

It can be speculated that insuring children through community-based case managers might have the potential to contribute to the revitalization of impoverished Latino communities. Case management not only could effectively reduce the number of uninsured children in a community but also might serve as a means of enhancing a community's employment opportunities. The case managers could be trained individuals from the community who serve their own community, drawn from welfare-to-work and other local and state employment programs. Part of each case manager's earnings, in turn, might be spent at local businesses, resulting in a ''triple effect'' of reducing the number of uninsured children, increasing parental employment, and stimulating the local economy. Under this scenario, SCHIP and Medicaid programs could partner with state employment agencies to train and to hire the community case managers. As an intervention that is comprehensive, community-based, and focused on the family, community-based case management shares key features with several established family support programs considered to be effective in improving child health outcomes, such as Head Start and early intervention programs for children with special health care needs.

CONCLUSIONS

This randomized, controlled trial indicates that community-based case managers are significantly more effective than traditional SCHIP/Medicaid outreach and enrollment in insuring uninsured Latino children. Community case management seems to be a useful mechanism for reducing the number of uninsured children, especially among children most at risk for being uninsured.

TABLE 1.—BASELINE CHARACTERISTICS OF STUDY PARTICIPANTS

Characteristic	Case management (n=139)	Control (n=136)	P
Child's age, y, mean ± SD	8.9 ± 5.0	8.9 ± 4.9	.96
Parent's age, y, mean ± SD	36.7 ± 9.1	36.7 ± 8.9	.98
Annual combined family income, median (range)	$13,200 ($0–72,000)	$12,945 ($0–48,000)	.41
Annual combined family income, no. (%)[1]:			.57
0–100% of federal poverty threshold	92 (69)	86 (73)	
101–200% of federal poverty threshold	36 (27	30 (25)	
>200% of federal poverty threshold	5 (4)	2 (2)	
Number of children in family, no. (%):			.64
1	49 (35)	42 (31)	
2	52 (37)	54 (40)	
3	25 (18)	21 (15)	
≥4	13 (9)	18 (13)	
Parent's ethnicity, no. (%):			.51
Colombian	58 (42)	47 (35)	
Dominican	27 (19)	24 (18)	
Salvadoran	29 (21)	32 (24)	
Guatemalan	7 (5)	13 (10)	
Mexican	3 (2)	6 (4)	
Other	15 (11)	14 (10)	
At least 1 parent employed full-time, no. (%)	119 (86)	99 (73)	.01
Parental citizenship, no. (%):			.96
US citizen	14 (10)	15 (11)	
Legal resident	69 (51)	67 (49)	
Undocumented	56 (40)	54 (40)	
Parent limited in English proficiency, no. (%)[2]	127 (91)	126 (93)	.96

TABLE 1.—BASELINE CHARACTERISTICS OF STUDY PARTICIPANTS—Continued

Characteristic	Case management (n=139)	Control (n=136)	P
Parental marital status, no. (%):			.82
Married	63 (45)	59 (43)	
Separated	19 (14)	15 (11)	
Divorced	9 (6)	9 (7)	
Single	29 (21)	39 (29)	
Common law	16 (12)	12 (9)	
Widowed/other	3 (2)	2 (1)	
Parental educational attainment, no. (%):			.75
None/grade school	43 (31)	38 (28)	
6th to 11th grade	24 (17)	20 (15)	
High school graduate	38 (28)	44 (32)	
Some college	11 (8)	15 (11)	
College degree [3]	22 (16)	19 (14)	
Lost/withdrew from study before any follow up contact, no. (%)	4 (3)	12 (9)	.04
Follow-up contacts, no., mean ±SD [4]	8.3 ±2.2	7.9 ±2.3	.14
Recruitment site, no. (%):			.91
East Boston	101 (73)	98 (72)	
Jamaica Plain	38 (27)	38 (28)	
Participant recruitment in relation to policy change in state coverage of uninsured children, no. (%):			.02
Before policy change	38 (27)	20 (15)	
Restrictive change in effect	14 (10)	22 (17)	
Reestablishment of most of prior policy	87 (63)	94 (70)	

[1] Three parents in the intervention group and 18 in the control group chose not to answer questions on family income.
[2] U.S. Census definition of self-rated English-speaking ability of less than very well (ie, well, not very well, or not at all).
[3] Associate, bachelor's, or postgraduate degree.
[4] Among participants with any follow-up contacts.

TABLE 2.—STUDY OUTCOMES ACCORDING TO GROUP ASSIGNMENT

Outcome	Case management (n = 139)	Control (n = 136)	P
Child obtained health insurance coverage, %	96	57	<.0001
Continuously insured	78	30	<.0001
Sporadically insured [1]	18	27	<.0001
Child continuously uninsured, %	4	43	<.0001
Mean time to obtain insurance, d, mean ± SD	87.5 ± 68	134.8 ± 102.4	<.009
Parental satisfaction with process of obtaining child's insurance, % [2]:			
Very satisfied	80	29	[3] <.0001
Satisfied	12	41	
Uncertain	5	4	
Dissatisfied	2	13	
Very dissatisfied	1	14	
Mean parental satisfaction score for process of obtaining child's insurance (5-point Likert scale), mean ± SD [2,4]	1.33 ± 0.77	2.40 ± 1.40	<.0001

[1] Obtained but then lost health insurance coverage.
[2] Regardless of whether child was insured or continuously uninsured; data were collected at the final 1-year follow-up contact.
[3] By Wilcoxon 2-sample test, Kruskal-Wallis test, and Cochran-Armitage trend test.
[4] Where 1 = very satisfied, 2 = satisfied, 3 = uncertain, 4 = dissatisfied, and 5 = very dissatisfied.

TABLE 3.—MULTIPLE LOGISTIC-REGRESSION ANALYSIS OF FACTORS ASSOCIATED WITH CHILDREN OBTAINING INSURANCE COVERAGE

Independence variable	Adjusted odds ratio (95% confidence interval) for obtaining insurance coverage
Group assignment:	
Control	Referent
Case management	7.78 (5.20–11.64)
Child's age:	
0–5 y	Referent
6–11 y	0.32 (0.19–0.56)
12–18 y	0.35 (0.019–0.63)
Annual combined family income:	
At or below federal poverty threshold	Referent
Above poverty threshold	1.19 (0.70–2.02)
Parental citizenship:	
Undocumented	Referent
Legal resident	1.42 (0.82–2.44)
U.S. citizen	2.40 (0.08–7.48)
Parental employment:	
Employed	Referent
Unemployed	0.78 (0.45–1.37)
Participant recruitment in relation to policy change in state coverage of uninsured children:	
Before policy change	Referent
Restrictive change in effect	0.46 (0.22–0.99)
Reestablishment of most of prior policy	0.74 (0.45–1.21)

By Mr. DURBIN (for himself and Mr. OBAMA):

2. 3977. A bill to provide a Federal income tax credit for Patriot employers, and for other purposes; to the Committee on Finance.

Mr. DURBIN. Mr. President, when companies make headlines today it is often for all the wrong reasons: fraud, tax avoidance, profiteering, etc. Yet many of the companies that are currently providing jobs across America are conscientious corporate citizens that strive to treat their workers fairly even as they seek to create good products that consumers want and to maximize profits for their shareholders. I believe that we should reward such companies for providing good jobs to American workers, and create incentives that encourage more companies to do likewise. The Patriot Employers bill does just that.

This legislation, which I am introducing today along with Senator OBAMA, would provide a tax credit to reward the companies that treat American workers best. Companies that provide American jobs, pay decent wages, provide good benefits, and support their employees when they are called to active duty should enjoy more favorable tax treatment than companies that are unwilling to make the same commitment to American workers. The Patriot Employers tax credit would put the tax code on the side of those deserving companies by acknowledging their commitments.

The Patriot Employers legislation would provide a tax credit equal to 1 percent of taxable income to employers that meet the following criteria:

First, invest in American jobs, by maintaining or increase the number of full-time workers in America relative to the number of full-time workers outside of America and also by maintaining their corporate headquarters in America if the company has ever been headquartered in America.

Second, pay decent wages, by paying each worker an hourly wage that would ensure that a full-time worker would earn enough to keep a family of three out of poverty, at least $8.00 per hour.

Third, prepare workers for retirement, either by providing either a defined benefit plan or by providing a defined contribution plan that fully matches at least 5 percent of worker contributions for every employee.

Fourth, provide health insurance, by paying at least 60 percent of each worker's health care premiums.

Fifth, support our troops, by paying the difference between the regular salary and the military salary of all National Guard and Reserve employees who are called for active duty, and also by continuing their health insurance coverage.

In recognition of the different business circumstances that small employers face, companies with fewer than 50 employees could achieve Patriot Employer status by fulfilling a smaller number of these criteria.

There is more to the story of corporate American than the widely-publicized wrong-doing. Patriot Employers should be publicly recognized for doing right by their workers even while they do well for their customers and shareholders. I urge my colleagues to join Senator OBAMA and me in supporting this effort. Our best companies, and our American workers, deserve nothing less.

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

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

S. 3977

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

SECTION 1. REDUCED TAXES FOR PATRIOT EMPLOYERS.

(a) IN GENERAL.—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 section:

''SEC. 45N. REDUCTION IN TAX OF PATRIOT EMPLOYERS.

''(a) IN GENERAL.—In the case of any taxable year with respect to which a taxpayer is certified by the Secretary as a Patriot employer, the Patriot employer credit determined under this section for purposes of section 38 shall be equal to 1 percent of the taxable income of the taxpayer which is properly allocable to all trades or businesses with respect to which the taxpayer is certified as a Patriot employer for the taxable year.

''(b) PATRIOT EMPLOYER.—For purposes of subsection (a), the term 'Patriot employer' means, with respect to any taxable year, any taxpayer which—

''(1) maintains its headquarters in the United States if the taxpayer has ever been headquartered in the United States,

''(2) pays at least 60 percent of each employee's health care premiums,

''(3) if such taxpayer employs at least 50 employees on average during the taxable year—

''(A) maintains or increases the number of full-time workers in the United States relative to the number of full-time workers outside of United States,

''(B) compensates each employee of the taxpayer at an hourly rate (or equivalent thereof) not less than an amount equal to the Federal poverty level for a family of three for the calendar year in which the taxable year begins divided by 2,080,

''(C) provides either—

''(i) a defined contribution plan which for any plan year—

''(I) requires the employer to make nonelective contributions of at least 5 percent of compensation for each employee who is not a highly compensated employee, or

''(II) requires the employer to make matching contributions of 100 percent of the elective contributions of each employee who is not a highly compensated employee to the extent such contributions do not exceed the percentage specified by the plan (not less than 5 percent) of the employee's compensation, or

''(ii) a defined benefit plan which for any plan year requires the employer to make contributions on behalf of each employee who is not a highly compensated employee in an amount which will provide an accrued benefit under the plan for the plan year which is not less than 5 percent of the employee's compensation, and

''(D) provides full differential salary and insurance benefits for all National Guard and Reserve employees who are called for active duty, and

''(4) if such taxpayer employs less than 50 employees on average during the taxable year, either—

''(A) compensates each employee of the taxpayer at an hourly rate (or equivalent thereof) not less than an amount equal to the Federal poverty level for a family of 3 for the calendar year in which the taxable year begins divided by 2,080, or

''(B) provides either—

''(i) a defined contribution plan which for any plan year—

''(I) requires the employer to make nonelective contributions of at least 5 percent of compensation for each employee who is not a highly compensated employee, or

''(II) requires the employer to make matching contributions of 100 percent of the elective contributions of each employee who is not a highly compensated employee to the extent such contributions do not exceed the percentage specified by the plan (not less than 5 percent) of the employee's compensation, or

''(ii) a defined benefit plan which for any plan year requires the employer to make contributions on behalf of each employee who is not a highly compensated employee in an amount which will provide an accrued benefit under the plan for the plan year which is not less than 5 percent of the employee's compensation.''.

(b) ALLOWANCE AS GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code or 1986 is amended by striking ''and'' at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting '', and'', and by adding at the end the following:

''(27) the Patriot employer credit determined under section 45N.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

Mr. OBAMA. Mr. President, I rise today, with my good friend and colleague, the senior Senator from the great State of Illinois, to introduce the Patriot Employers Act of 2006.

This measure is designed to help businesses and American workers seeking to compete in the global economy. By reducing corporate taxes for those firms that invest in America and American employees, the Patriot Employers Act rewards companies that, among other things, pay decent benefits, provide health coverage and support our troops by paying a full differential salary for deployed National Guard employees.

Too often we hear troubling news reports of American companies outsourcing jobs and exploiting corporate tax loopholes—by setting up incorporated offices, for example, in the Cayman Islands to avoid paying their fair share of taxes. Such companies fail to see that they are connected to the markets in which they operate, and by dodging their financial responsibilities, they are harming the very economy that they, too, will need to rely on in the future.

Recognizing these challenges, this bill says that we are going to align our corporate tax policy with the corporate practices we want to encourage.

The Patriot Employers Act cuts taxes for American companies that: maintain headquarters in the U.S.; pay at least 60 percent of employees' healthcare premiums; maintain or increase their U.S. workforce relative to their workforce located abroad; pay an hourly rate several dollars above the outdated minimum wage; provide either a defined benefit retirement plan or a defined contribution plan with an employer match; and provide full differential salary and benefits for National Guard employees called into active duty.

It is important that our American firms remain competitive and innovate, in part by investing in the long-term health of those workers and communities in which they operate and impact. Increasing corporate shareholder value and acting in the interests of the public good are not mutually exclusive goals, and this legislation recognizes that point. All of us have a stake in improving returns to all corporate stakeholders, including investors, managers, employees, consumers, and our communities.

To this end, I am proud to be an original cosponsor of this bill and I hope that it will renew attempts by lawmakers—both legislative and otherwise—to engage productively with the business community to address their long-term market concerns while promoting the well-being of American workers. Government does not create jobs; entrepreneurs and businesses do. The future of the American economy requires that American businesses continue to grow and improve their productivity and competitiveness. It requires that American companies have the very best workforce and infrastructure to compete and win in every market they enter.

Ensuring American competitiveness will demand new thinking from leaders in business, labor, education, and government: it will demand new responses and roles, new coalitions and collaborations, among these stakeholders. Long-term American competitiveness will demand bipartisan commitment to strengthening all parts of our economy and improving opportunities for all Americans.

The Patriot Employers Act is an important step in this process. Let's align business incentives with the investments we need in the future of the American workforce. Let's begin the conversation about how to ensure American competitiveness for the 21st century and beyond.

I urge quick support for this important legislation.

By Mrs. CLINTON:

S. 3978. A bill to provide consumer protections for lost or stolen check cards and debit cards similar to those provided with respect to credit cards, and for other purposes, to the Committee on Banking, Housing, and Urban Affairs.

Mrs. CLINTON. Mr. President, today I am introducing the Debit and Check Card Consumer Protection Act of 2006, an important piece of legislation in the battle against consumer fraud. Despite consumers' best efforts, debit and check card fraud is a serious problem making consumer liability an important issue. Unfortunately, current consumer protection laws do not adequately protect debit and check card holders from fraud.

Over the last decade, debit and check card use has experienced double digit growth and now over 80 percent of American consumer households possess a debit or check card. This growth has outpaced that of credit cards and recent reports indicate that between 2001 and 2003 consumers made 42.5 billion

transactions with debit cards, 2.3 billion more transactions than with credit cards.

While debit and check card growth benefits the American economy, consumers continually face greater challenges to prevent and protect themselves from debit and check card fraud. Recent statistics show that in 2005, ATM/debit card fraud in the United States generated losses of $2.75 billion. During the same period, ATM fraud alone affected 3 million U.S. consumers.

Despite these findings, debit and check card consumer liability protections under the law remain substandard as compared to credit cards. Under current law, debit and check card holders are liable for fraudulent transactions dependent upon when they report the fraud. In some cases the consumer can be held accountable for $500 worth of fraudulent transactions. Conversely, credit card holders who face similar consumer challenges are liable for a maximum payment of $50 and are allowed to refuse or ''chargeback'' a payment when goods or services fail to arrive or they are dissatisfied with a transaction. Debit and check card holders are not provided with similar ''chargeback'' protections. Fortunately, some debit and check card issuers provide customers with stronger liability protections; however, it is essential that consumers are assured liability protections under the law, not just through a company's policy.

The Debit and Check Card Consumer Protection Act of 2006 remedies these inconsistencies between credit card liability protections and debit and check card liability protections by simply affording the same level of protection to debit and check card users given to credit card users. This legislation is an important step in ensuring consumer protections in an economy increasingly driven by electronic commercial transactions, and I am proud that Consumers Union, one of the largest nonpartisan advocate organizations for consumer rights, has endorsed it.

The time has come to strengthen debit and check card liability protections for the American consumer, and I urge my colleagues to support this simple and commonsense remedy to a growing problem. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3978

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 ''Debit and Check Card Consumer Protection Act of 2006''.

SEC. 2. FINDINGS.

Congress finds that—

(1) debit and check card use has experienced double digit growth for longer than a decade, and more than 80 percent of American consumer households now posses a debit or check card;

(2) between 2001 and 2003, consumers made 42,500,000,000 transactions with debit cards, eclipsing credit card transactions by 2,300,000,000;

(3) as of 2003, debit cards accounted for ⅓ of all purchases in stores;

(4) in addition to the rise in debit and check card use, debit and check card fraud increasingly challenges American consumers;

(5) in 2005, debit card and ATM fraud accounted for losses of $2,750,000,000;

(6) despite that growth, statutory debit and check card consumer liability protections remain substandard, as compared to credit cards;

(7) the debit and check card industry has, in some instances, instituted liability protections that often exceed the requirements set forth under the provisions of law; and

(8) the law should be changed to ensure a continued level of liability protection.

SEC. 3. CAP ON DEBIT CARD LIABILITY.

Section 909(a) of the Electronic Funds Transfer Act (15 U.S.C. 1693g(a)) is amended—

(1) by striking ''Notwithstanding the foregoing'' and all that follows through ''whichever is less.''; and

(2) by striking ''meana'' and inserting ''means''.

SEC. 4. DEBIT CARD ERROR RESOLUTION.

Section 908(f) of the Electronic Funds Transfer Act (15 U.S.C. 1693f(f)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

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

''(6) a charge for goods or services not accepted by the consumer or the designee thereof, or not delivered to the consumer or the designee thereof, in accordance with the agreement made at the time of a transaction;''.

SEC. 5. CONSUMER RIGHTS.

Section 908 of the Electronic Funds Transfer Act (15 U.S.C. 1693f) is amended by adding at the end the following:

''(g) RIGHTS OF CONSUMERS WITH RESPECT TO ACCEPTED CARDS.—

''(1) IN GENERAL.—Subject to the limitation contained in paragraph (2), the issuer of an accepted card to a consumer shall be subject to all claims (other than tort claims) and defenses arising out of any transaction in which the accepted card is used as a method of payment, if—

''(A) the consumer has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the accepted card;

''(B) the amount of the initial transaction exceeds $50; and

''(C) the transaction was initiated by the consumer in the same State as the mailing address previously provided by the consumer, or within 100 miles from such address, except that the limitations set forth in subparagraphs (A) and (B) with respect to the right of a consumer to assert claims and defenses against the issuer of the card shall not be applicable to any transaction in which the person honoring the accepted card—

''(i) is the same person as the card issuer;

''(ii) is controlled by the card issuer;

''(iii) is under direct or indirect common control with the card issuer;

''(iv) is a franchised dealer in the products or services of the card issuer; or

''(v) has obtained the order for such transaction through a mail solicitation made by or participated in by the card issuer in which the cardholder is solicited to enter into such transaction by using the accepted card issued by the card issuer.

''(2) LIMITATION.—The amount of claims or defenses asserted by the cardholder under this subsection may not exceed the amount paid by the cardholder with respect to the subject transaction at the time at which the cardholder first notifies the card issuer or the person honoring the accepted card of such claim or defense.''.

SEC. 6. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall issue final regulations to carry out the amendments made by this Act, which regulations shall be consistent, to the extent practicable, with regulations issued to carry out similar provisions under the Truth in Lending Act.

By Mr. DODD (for himself, Mr. FRIST, Mr. HARKIN, Mrs. CLINTON, Mr. REED, and Mr. DURBIN):

S. 3980. A bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, food allergies are an increasing food safety and public health concern in this country, especially among young children. I know first-hand just how frightening food allergies can be in a young person's life. My own family has been personally touched by this troubling condition and we continue to struggle with it each and every day. Sadly, there is no cure for food allergies.

In the past 5 years, the number of Americans with food allergies has nearly doubled from 6 million to almost 12 million. While food allergies were at one time considered relatively infrequent, today they rank 3rd among common chronic diseases in children under 18 years old. Peanuts are among several allergenic foods that can produce life-threatening allergic reactions in susceptible children. Peanut allergies have doubled among school-age children from 1997 to 2002.

Clearly, food allergies are of great concern for school-age children Nationwide, and yet, there are no Federal guidelines concerning the management of life-threatening food allergies in our Nation's schools.

I have heard from parents, teachers and school administrators that students with severe food allergies often face inconsistent food allergy management approaches when they change schools—whether they get promoted or move to a different city. Too often, families are not aware of the food allergy policy at their children's school, or the policy is vastly different from the one they knew at their previous school, and they are left wondering whether their child is safe.

Last year, Connecticut became the first State to enact school-based guidelines concerning food allergies and the

prevention of life-threatening incidents in schools. I am very proud of these efforts, and I know that the parents of children who suffer from food allergies in Connecticut have confidence that their children are safe throughout the school day. Other States, such as Massachusetts, have enacted similar guidelines. Tennessee school districts are poised to implement their statewide guidelines in July. But too many States across the country have food allergy management guidelines that are inconsistent from one school district to the next.

In my view, this lack of consistency underscores the need for enactment of uniform, Federal policies that school districts can choose to adopt and implement.

For this reason, my colleague, Senator FRIST, and I introduce the Food Allergy and Anaphylaxis Management Act of 2006 today to address the growing need for uniform and consistent school-based food allergy management policy. I thank Senator FRIST for his hard work and commitment to this important legislation.

The legislation does two things. First, it directs the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop and make available voluntary food allergy management guidelines for preventing exposure to food allergens and assuring a prompt response when a student suffers a potentially fatal anaphylactic reaction.

Second, the bill provides for incentive grants to school districts to assist them with adoption and implementation of the Federal Government's allergy management guidelines in all K–12 public schools.

I wish to acknowledge and offer my sincere appreciation to the members of the Food Allergy and Anaphylaxis Network for their commitment to this legislation and for raising public awareness, providing advocacy, and advancing research on behalf of all individuals who suffer from food allergies.

I hope that my colleagues in the Senate and in the House will consider and pass this important legislation before the end of the year so that the Department of Health and Human Services can begin work on developing national guidelines as soon as possible. Schoolchildren across the country deserve nothing less than a safe and healthy learning environment.

Mr. FRIST. Mr. President, 6 years ago, my great-nephew had some peanut butter. He was 13 months old. For most 13-month-old children, this wouldn't be an issue. But for McClain Portis, it was.

You see, unbeknownst to him or his parents at the time, McClain is allergic to peanuts. When he ate that peanut butter, he had an anaphylactic reaction.

Within 30 seconds, his lips and eyes swelled shut, his face turned bright red, and he developed what is called a full body hive.

But McClain's parents were quick thinkers. They called 911, and he was soon better after a dose of epinephrine. That's what calms the anaphylactic reaction, if administered in time.

But 6 hours later, the epinephrine wore off. McClain had a biphasic reaction and had to return to the pediatrician to receive steroids. His older sister, just 4 years old at the time, asked their mother, ''Is my brother going to die?''

McClain is 7 years old now—in first grade. He's an active boy, with many friends. And he enjoys school. But school hasn't been easy—for McClain or his parents.

It's that way for a lot of children with food allergies, especially when they find themselves switching schools.

I recently met another young man from Nashville—Andrew Wright. He's 14 now, and he attends the same high school from which I graduated.

He's endured food allergies nearly his entire life—but somehow the high-spirited teen keeps a positive outlook on life.

For a long time, every year he and his parents had to start from scratch. They had to teach the schools how to recognize and treat an allergic reaction. And they had to teach them about his allergens—sheep's milk, tree nuts, peanuts, and possibly shellfish. That's stressful work—for Andrew, for his parents, and even for the schools.

Andrew and McClain aren't alone in their struggles. Across the country, 3 million children suffer from food allergies.

Milk. Eggs. Fish. Shellfish. Tree nuts. Peanuts. Wheat. Soy.

Foods that most people enjoy. But these 8 foods account for 90 percent of all food allergic reactions.

And for 3 million American children, these foods frequently aren't safe. Their immune system makes a mistake. It treats something in a certain food as if it's dangerous.

The food itself isn't harmful, but the body's reaction is.

Within a few hours—or sometimes, only minutes—of consuming a food allergen, a host of symptoms can burst forth, affecting the eyes, nose, throat, respiratory system, skin, and digestive system. The reaction could be mild—or it could be more severe, like it was for my great-nephew McClain.

Food-allergic reactions are the leading cause of anaphylaxis. If left untreated for too long, anaphylaxis can prove fatal. But it's treatable—with adrenaline, or epinephrine.

In fact, studies have demonstrated an association between a delay in the administration of epinephrine—or non-administration—and anaphylaxis fatalities.

So it makes sense that we'd want schools to keep epinephrine on hand—in case a child experiences a food-allergic reaction leading to anaphylaxis. And it makes sense that we'd want school personnel to know how to recognize and treat food-allergic reactions.

But currently, there are no Federal guidelines concerning the management of life-threatening food allergies in the school setting.

In fact, in a recent survey, three-fourths of elementary school nurses reported developing their own training guidelines for responding to food allergies.

This means that when children change schools—they're promoted, they move, they're redistricted—for whatever reason—they and their parents face different food allergy management approaches. And there's no across-the-board consistency.

That's why Senator DODD and I have introduced the Food Allergy and Anaphylaxis Management Act of 2006.

We believe the Federal Government should establish uniform, voluntary food allergy management guidelines—and schools should be strongly encouraged to adopt and implement such guidelines.

The bill directs the Secretary of Health and Human Services—in consultation with the Secretary of Education—to develop voluntary food allergy management guidelines.

The guidelines would help prevent exposure to food allergens and help ensure a prompt response when a child suffers a potentially fatal anaphylactic reaction. Under the bill, these guidelines must be developed and made available within one year of enactment.

Additionally, the bill provides for school-based allergy management incentive grants to local education agencies. These grants assist with the adoption and implementation of food allergy management guidelines in public schools.

There are 3 million American children who suffer from food allergies. We can't cure them of their allergies. But we can help prevent allergic reactions, and we can help ensure timely treatment of them when they occur.

I urge my colleagues to support this bipartisan measure—so we can help keep America's children healthy.

By Mr. KOHL (for himself and Mr. LEAHY):

S. 3981. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish requirements for certain petitions submitted to the Food and Drug Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KOHL. Mr. President, I rise today to introduce the Citizen Petition Fairness and Accuracy Act of 2006. This legislation will help speed the introduction of cost-saving generic drugs by preventing abuses of the Food and Drug Administration citizen petition process.

Consumers continue to suffer all across our country from the high—and ever rising—cost of prescription drugs. A recent independent study found that prescription drug spending has more than quadrupled since 1990, and now accounts for 11 percent of all health care

spending. At the same time, the pharmaceutical industry is one of the most profitable industries in the world, returning more than 15 percent on their investments.

One key method to bring prescription drug prices down is to promote the introduction of generic alternatives to expensive brand name drugs. Consumers realize substantial savings once generic drugs enter the market. Generic drugs cost on average of 63 percent less than their brand-name equivalents. One study estimates that every 1 percent increase in the use of generic drugs could save $4 billion in health care costs.

This is why I have been so active in the last year in pursuing legislation designed to combat practices which impede the introduction of generic drugs—including S. 3582, the Preserve Access to Generics Act, which would forbid payments from brand name drug manufacturers to generic manufacturers to keep generic drugs off the markets, and S. 2300, the Lower Priced Drugs Act, legislation I co-sponsored to combat other conduct which impedes the marketing of generic drugs. The legislation I introduce today targets yet another practice by brand name drug companies to impede or block the marketing of generic drugs—abuse of the FDA citizen petition process.

FDA rules permit any person to file a so-called ''citizen petition'' to raise concerns about the safety or efficacy of a generic drug that a manufacturer is seeking FDA approval to bring to market. While this citizen petition process was put in place for a laudable purpose, unfortunately in recent years it has been abused by frivolous petitions submitted by brand name drug manufacturers (or individuals acting at their behest) whose only purpose is to delay the introduction of generic competition. The FDA has a policy of not granting any new generic manufacturer's drug application until after it has considered and evaluated any citizen petitions regarding that drug. The process of resolving a citizen petition (even if ultimately found to be groundless) can delay the approval by months or years. Indeed, brand name drug manufacturers often wait to file citizen petitions until just before the FDA is about to grant the application to market the new generic drug, solely for the purpose of delaying the introduction of the generic competitor for the maximum amount of time possible. This gaming of the system should not be tolerated.

In recent years, FDA officials have expressed serious concerns about the abuse of the citizen petition process. Last year, FDA Chief Counsel Sheldon Bradshaw noted that ''[t]he citizen petition process is in some cases being abused. Sometimes, stakeholders try to use this mechanism to unnecessarily delay approval of a competitor's products.'' He added that he found it ''particularly troublesome'' that he had ''seen several examples of citizen petitions that appear designed not to raise timely concerns with respect to the legality or scientific soundness of approving a drug application, but rather to delay approval by compelling the agency to take the time to consider the arguments raised in the petition, regardless of their merits, and regardless of whether the petitioner could have made those very arguments months and months before.''

And a simple look at the statistics gives credence to these concerns. Of the 21 citizen petitions for which the FDA has reached a decision since 2003, 20 or 95 percent of them have been found to be without merit. Of these, ten were identified as ''eleventh hour petitions'', defined as those filed less than 6 months prior to the estimated entry date of the generic drug. None of these ten ''eleventh hour petitions'' were found to have merit, but each caused unnecessary delays in the marketing of the generic drug by months or over a year, causing consumers to spend millions and millions more for their prescription drugs than they would have spent without these abusive filings.

Despite the expense these frivolous citizen petitions cause consumers and the FDA, under current law the government has absolutely no ability to sanction or penalize those who abuse the citizen petition process, or who file citizen petitions simply to keep competition off the market. Our legislation will correct this obvious shortcoming and give the Department of Health and Human Services—the FDA's parent agency—the power to sanction those who abuse the process.

Our bill will, for the first time, require all those who file citizen petitions to affirm certain basic facts about the truthfulness and good faith of the petition, similar to what is required of every litigant who makes a filing in court. The party filing the citizen petition will be required to affirm that the petition is well grounded in fact and warranted by law; is not submitted for an improper purpose, such as to harass or cause unnecessary delay in approval of competing drugs; and does not contain any materially false, misleading or fraudulent statement. The Secretary of the Department of Health and Human Services is empowered to investigate a citizen petition to determine if it has violated any of these principles, was submitted for an improper purpose, or contained false or misleading statements. Further, the Secretary is authorized to penalize anyone found to have submitted an abusive citizen petition. Possible sanctions include a fine up to one million dollars, a suspension or permanent revocation of the right of the violator to file future citizens' petition, and a dismissal of the petition at issue. HHS is also authorized to refer the matter to the Federal Trade Commission so that the FTC can undertake its own investigation as to the competitive consequences of the frivolous petition and take any action it finds appropriate. Finally, the bill directs the HHS that all citizen petitions be adjudicated within six months of filing, which will put an end to excessive delays in bringing needed generic drugs to market because of the filings of these petitions.

While our bill will not have any effect on any person filing a truly meritorious citizen petition, this legislation will serve as a strong deterrent to attempts by brand name drug manufacturers or any other party that seeks to abuse the citizen petition process to thwart competition. It will thereby remove one significant obstacle exploiting by brand name drug companies to prevent or delay the introduction of generic drugs. I urge my colleagues to support this legislation.

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

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

S. 3981

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 ''Citizen Petition Fairness and Accuracy Act of 2006''.

SEC. 2. CITIZEN PETITIONS AND PETITIONS FOR STAY OF AGENCY ACTION.

Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) is amended by adding at the end the following:

''(G)(i) Notwithstanding any other provision of law, any petition submitted under section 10.30 or section 10.35 of title 21, Code of Federal Regulations (or any successor regulation), shall include a statement that to the petitioner's best knowledge and belief, the petition—

''(I) includes all information and views on which the petitioner relies, including all representative data and information known to the petitioner that is favorable or unfavorable to the petition;

''(II) is well grounded in fact and is warranted by law;

''(III) is not submitted for an improper purpose, such as to harass or cause unnecessary delay (including unnecessary delay of competition or agency action); and

''(IV) does not contain a materially false, misleading, or fraudulent statement.

''(ii) The Secretary shall investigate, on receipt of a complaint, a request under clause (vi), or on its own initiative, any petition submitted under such section 10.30 or section 10.35 (or any successor regulation), that—

''(I) does not comply with the requirements of clause (i);

''(II) may have been submitted for an improper purpose as described in clause (i)(III); or

''(III) may contain a materially false, misleading, or fraudulent statement as described in clause (i)(IV).

''(iii) If the Secretary finds that the petitioner has knowingly and willingly submitted the petition for an improper purpose as described in clause (i)(III), or which contains a materially false, misleading, or fraudulent statement as described in clause (i)(IV), the Secretary may—

''(I) impose a civil penalty of not more than $1,000,000, plus attorneys fees and costs of reviewing the petition and any related proceedings;

''(II) suspend the authority of the petitioner to submit a petition under such section 10.30 or section 10.35 (or any successor regulation), for a period of not more than 10 years;

''(III) revoke permanently the authority of the petitioner to submit a petition under such section 10.30 or section 10.35 (or any successor regulation); or

''(IV) dismiss the petition at issue in its entirety.

''(iv) If the Secretary takes an enforcement action described in subclause (I), (II), (III), or (IV) of clause (iii) with respect to a petition, the Secretary shall refer that petition to the Federal Trade Commission for further action as the Federal Trade Commission finds appropriate.

''(v) In determining whether to take an enforcement action described in subclause (I), (II), (III), or (IV) of clause (iii) with respect to a petition, and in determining the amount of any civil penalty or the length of any suspension imposed under that clause, the Secretary shall consider the specific circumstances of the situation, such as the gravity and seriousness of the violation involved, the amount of resources expended in reviewing the petition at issue, the effect on marketing of competing drugs of the pendency of the improperly submitted petition, including whether the timing of the submission of the petition appears to have been calculated to cause delay in the marketing of any drug awaiting approval, and whether the petitioner has a history of submitting petitions in violation of this subparagraph.

''(vi)(I) Any person aggrieved by a petition filed under such section 10.30 or section 10.35 (or any successor regulation), including a person filing an application under subsection (b)(2) or (j) of this section to which such petition relates, may request that the Secretary initiate an investigation described under clause (ii) for an enforcement action described under clause (iii).

''(II) The aggrieved person shall specify the basis for its belief that the petition at issue is false, misleading, fraudulent, or submitted for an improper purpose. The aggrieved person shall certify that the request is submitted in good faith, is well grounded in fact, and not submitted for any improper purpose. Any aggrieved person who knowingly and intentionally violates the preceding sentence shall be subject to the civil penalty described under clause (iii)(I).

''(vii) The Secretary shall take final agency action with respect to a petition filed under such section 10.30 or section 10.35 (or any successor regulation) within 6 months of receipt of such petition. The Secretary shall not extend such 6-month review period, even with consent of the petitioner, for any reason, including based upon the submission of comments relating to a petition or supplemental information supplied by the petitioner. If the Secretary has not taken final agency action on a petition by the date that is 6 months after the date of receipt of the petition, such petition shall be deemed to have been denied on such date.

''(viii) The Secretary may promulgate regulations to carry out this subparagraph, including to determine whether petitions filed under such section 10.30 or section 10.35 (or any successor regulation) merit enforcement action by the Secretary under this subparagraph.''.

By Mr. HARKIN (for himself, Mr. LEAHY, Ms. MIKULSKI, and Mr. KERRY):

S. 3984. A bill to improve programs for the identification and treatment of post-deployment mental health conditions, including post-traumatic stress disorder, in veterans and members of the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs.

Mr. HARKIN. Mr. President, more than 41 million Americans suffer from a moderate or serious mental disorder each year. Unfortunately, because of the lingering stigma attached to mental illness, and lack of coverage under health insurance, these disorders often go untreated. I am particularly concerned that we are neglecting the mental health of our returning war veterans.

Earlier this year, I introduced a bill directing the Department of Veterans Affairs to create a program to address the shocking rate of suicide among veterans returning from combat in Iraq and Afghanistan. That bill, the Joshua Omvig Suicide Prevention Act of 2006, was named in honor of a young hero from Grundy Center who killed himself soon after returning from a tour of duty in Iraq.

But we also need a broader strategy for addressing the mental health needs of service members exposed to the stress and trauma of war.

And that is why I introduced legislation today directing the Department of Veterans Affairs to develop a comprehensive plan to improve the diagnosis and treatment of Post Traumatic Stress Disorder, PTSD, in our veterans. My bill would require the VA to create a curriculum and required protocols for training VA staff to better screen PTSD. It also would require the VA to commit additional staff and resources to this challenge.

During my years in the Navy, I learned one of the most important lessons of my entire life: Never leave a buddy behind. That's true on the battlefield—and it's also true after our service members return home.

Often, the physical wounds of combat are repaired, but the mental damage—the psychological scars of combat—can haunt a person for a lifetime.

One study shows that about 17 percent of active-duty service members who served in Iraq screened positive for anxiety, depression, or PTSD. This number is comparable to rates of PTSD experienced by Vietnam War veterans. But, in the decades since, scientists have learned that quick intervention is critical to ensuring that an acute stress reaction does not become a chronic mental illness.

This is exactly the aim of my bill: to improve early detection and intervention . . . to save lives . . . and to prevent long-term mental illness. The Federal Government has a moral contract with those who have fought for our country and sacrificed so much. This bill is about making good on that contract.

By Mr. OBAMA:

S. 3988. A bill to amend title 10 and 38, United States Code, to improve benefits and services for members of the Armed Forces, veterans of the Global War on Terrorism, and other veterans, to require reports on the effects of the Global War on Terrorism, and for other purposes; to the Committee on Veterans' Affairs.

Mr. OBAMA. Mr. President, I rise today to introduce legislation that is significant both in the problems it seeks to address and the man it seeks to honor.

Since the day he arrived in Congress more than two decades ago, LANE EVANS has been a tireless advocate for the men and women with whom he served. When Vietnam vets started falling ill from Agent Orange, he led the effort to get them compensation. LANE was one of the first in Congress to speak out about the health problems facing Persian Gulf war veterans. He's worked to help veterans suffering from Post-Traumatic Stress Disorder, and he's also helped make sure thousands of homeless veterans in our country have a place to sleep.

LANE EVANS has fought these battles for more than 20 years, and even in the face of his own debilitating disease, he kept fighting. Today, veterans across America have LANE EVANS to thank for reminding this country of its duty to take care of those who have risked their lives to defend ours.

I am very proud today to introduce the Lane Evans Veterans Healthcare and Benefits Improvement Act of 2006. This bill honors a legislator who leaves behind an enduring legacy of service to our veterans. The legislation also is an important step towards caring for our men and women who are currently fighting for us.

Today, nearly 1.5 million American troops have been deployed overseas as part of the global war on terror. These brave men and women who protected us are beginning to return home. Six hundred thousand people who served in Iraq and Afghanistan are now veterans, and at least 184,400 have already received treatment at the VA. That number is increasing every day. Many of these fighting men and women are coming home with major injuries. As a country, we are only beginning to understand the true costs of the global war on terror.

For instance, last week, the Government Accountability Office reported that VA has faced $3 billion in budget shortfalls since 2005 because it underestimated the costs of caring for Iraq and Afghanistan veterans. The VA wasn't getting the information it needed from the Pentagon and was relying on outdated data and incorrect forecasting models. We cannot let these kind of bureaucratic blunders get in the way of the care and support we owe our servicemembers.

To avoid these costly shortfalls in the future, we have to do a better job keeping track of veterans. That's why the first thing the Lane Evans Act does is to establish a system to track global war on terror veterans. The VA established a similar data system following the Persian Gulf War. That effort has

been invaluable in budget planning as well as in monitoring emerging health trends and diseases linked to the gulf war. The Gulf War Veterans Information System also has been important to medical research and improved care for veterans. The sooner we begin keeping accurate track of our fighting men and women in Iraq, Afghanistan and beyond, the better and more efficiently we will be able to care for them.

The Lane Evans Act also tackles Post-Traumatic Stress Disorder. Mental health patients account for about a third of the new veterans seeking care at the VA. The VA's National Center for PTSD reports that ''the wars in Afghanistan and Iraq are the most sustained combat operations since the Vietnam War, and initial signs imply that these ongoing wars are likely to produce a new generation of veterans with chronic mental health problems.''

This bill addresses PTSD in 2 ways. First, it extends the window during which new veterans can automatically get care for mental health from 2 years to 5 years. Right now, any servicemember discharged from the military has up to 2 years to walk into the VA and get care, no questions asked. After that, vets have to prove that they are disabled because of a service-connected injury, or they have to prove their income is below threshold levels. Unfortunately, it can take years for symptoms of PTSD to manifest themselves. The time it takes to prove service-connection for mental health illness is valuable time lost during which veterans are not receiving critically needed treatment. The Lane Evans Act allows veterans to walk into a VA any time 5 years after discharge and get assessed for mental health care. This both extends the window and shortens the wait for vets to get care.

Second, the legislation makes face-to-face physical and mental health screening mandatory 30 to 90 days after a soldier is deployed in a war zone. This will ensure that our fighting force is ready for battle, and that we can identify and treat those at risk for PTSD. By making the exams mandatory, we can help eliminate the stigma associated with mental health screening and treatment.

Another problem veterans face is that the VA and DoD do not effectively share medical and military records. Older veterans often have to wait years for their benefits as the Department of Defense recovers aging and lost paper records. Under the Lane Evans Act, the Department of Defense would provide each separating service member at the time of discharge with a secure full electronic copy of all military and medical records to help them apply for healthcare and benefits. DoD possesses the technology to do this now. The information could be useful to VA to quickly and accurately document receipt of vaccinations or deployment to a war zone. The electronic data will also be helpful in future generations when family members of veterans seek information about military service, awards, and wartime deployment that goes well beyond the existing single-sheet DD–214 discharge certificate, which is all veterans currently receive.

Finally, the legislation improves the transition assistance that guardsmen and reservists receive when they return from deployment. A 2005 GAG report found that because demobilization for guardsmen and reservists is accelerated, reserve units get abbreviated and perfunctory transition assistance including limited employment training. VA should provide equal briefings and transition services for all service members regarding VA healthcare, disability compensation, and other benefits, regardless of their duty status.

Lane Evans dedicated his life to serving this country and dedicated his time in Congress to serving veterans. The legislation I am introducing today, honors both the man and his mission, and will continue his legacy to the next generation of American veterans.

By Mr. BIDEN:

S. 3989. A bill to establish a Homeland Security and Neighborhood Safety Trust Fund and refocus Federal priorities toward securing the Homeland, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. BIDEN. Mr. President, I rise today to introduce the Homeland Security Trust Fund Act of 2006. And, I do so because it is my sincere belief, that in order to better prevent attacks here at home, we must dramatically reorder the priorities of the Federal Government.

This legislation, which I unsuccessfully attempted to attach to the port security legislation 2 weeks ago, will reorder our priorities by creating a homeland security trust fund that will set aside $53.3 billion to invest in our homeland security over the next 5 years. Through this trust fund we will allocate an additional $10 billion per year over the next 5 years to enhance the safety of our communities.

Everyone in this body knows that we are not yet safe enough. Independent experts, law enforcement personnel, and first responders have warned us that we have not done enough to prevent an attack and we are ill-equipped to respond to one. Hurricane Katrina, which happened just over a year ago, demonstrated this unfortunate truth and showed us the devastating consequences of our failure to act responsibly here in Washington. And, last December, the 9/11 Commission issued their report card on the administration's and Congresses' progress in implementing their recommendations. The result was a report card riddled with D's and F's.

And, to add to this, the FBI reported earlier this summer that violent crime and murders are on the rise for the first time in a decade. Given all of this, it is hard to argue that we are as safe as we should be.

To turn this around, we have to get serious about our security. If we establish the right priorities, we can do the job. We can fund local law enforcement, which the President has attempted to slash by over $2 billion for fiscal year 2007. We can give the FBI an additional 1,000 agents to allow them to implement reforms without abandoning local crime. We can secure the soft targets in our critical infrastructure, to ensure that our chemical plants and electricity grids are protected from attacks. We can immediately re-allocate spectrum from the television networks and give it to our first responders so they can talk during an emergency.

I know what many of my colleagues here will argue. They will argue that it is simply too expensive to do everything. This argument is complete malarkey. This is all about priorities. And, quite frankly this Congress and this administration have had the wrong priorities for the past 5 years.

For example, this year the tax cut for Americans that make over $1 million is nearly $60 billion. Let me repeat that, just one year of the Bush tax cut for Americans making over $1 million is nearly $60 billion. In contrast, we dedicate roughly one-half of that—approximately $32 billion—to fund the operations of the Department of Homeland Security. We have invested twice as much for a tax cut for millionaires—less than 1 percent of the population—than we do for the Department intended to help secure the entire nation.

For a Nation that is repeatedly warned about the grave threats we face, how can this be the right priority? The Homeland Security Trust Fund Act of 2006 would change this by taking less than 1 year of the tax cut for millionaires—$53.3 billion—and investing it in homeland security over the next 5 years. By investing this over the next 5 years at just over $10 billion per year, we could implement all the 9/11 Commission recommendations and do those commonsense things that we know will make us safer.

For example, under this amendment, we could hire 50,000 additional police officers and help local agencies create locally based counter-terrorism units. We could hire an additional 1,000 FBI agents to help ensure that FBI is able to implement critical reforms without abandoning its traditional crime fighting functions. We could also invest in security upgrades within our critical infrastructure and nearly double the funding for state homeland security grants. And, the list goes on.

We continually authorize funding for critical homeland security programs, but a look back at our recent appropriations bills tells us that the funding rarely matches the authorization. Just this July we passed the Department of Homeland Security Appropriations Budget. In that legislation, the Senate allocated only $210 million for port security grants—which is just over one-half of the amounts authorized in the

bipartisan port security legislation that passed the Senate 2 weeks ago.

Yet, another example of this problem is our shameful record on providing funding for rail security. For the last two Congresses, the Senate has passed bipartisan rail security legislation sponsored by myself, Senator MCCAIN and others. This legislation authorizes $1.2 billion to secure the soft targets in our rail system, such as the tunnels and stations. Notwithstanding, we have only allocated $150 million per year for rail and transit security with less than $15 million allocated for intercity passenger rail security.

So, while it is critical that we have acknowledged the need for increased rail security funding by passing authorizations, unless we invest the money, it doesn't really mean much. Unfortunately, this is an example that is repeated over and over.

We know that the murder rate is up and that there is an officer shortage in communities throughout the Nation. Yet, we provide $0 funding for the COPS hiring program and we've slashed funding for the Justice Assistance Grant.

We know that our first responders can't talk because they don't have enough interoperable equipment. Yet, we have not forced the networks to turn over critical spectrum, and we vote down funding to help local agencies purchase equipment every year.

We know that only 5 percent of cargo containers are screened, yet we do not invest in the personnel and equipment to upgrade our systems.

We know that our critical infrastructure is vulnerable. Yet, we allow industry to decide what is best and provide scant resources to harden soft targets.

The 9/11 Commission's report card issued last December stated bluntly that ''it is time we stop talking about setting priorities and actually set some.''

This legislation will set some priorities. First, we provide the funding necessary to implement the recommendations of the 9/11 Commission. Next, we take the commonsense steps to make our Nation safer. We make sure that law enforcement and first responders have the personnel, equipment, training they need, and are sufficiently coordinated to do the job by providing $1.15 billion per year for COPS grants; $160 million per year to hire 1,000 FBI agents; $200 million to hire and equip 1,000 rail police. $900 million for the Justice Assistance Grants; $1 billion per year for interoperable communications; $1 billion for Fire Act and SAFER grants.

In addition, we could invest in new screening technologies to protect the American people by providing $100 million to improve airline screening checkpoints and $100 million for research and development on improving screening technologies. We also set aside funding to soften hard targets by setting aside $500 million per year for general infrastructure grants; $500 million per year for port security grants, and $200 million per year to harden our rail infrastructure. And the list goes on.

I will conclude where I started. This is all about setting the right priorities for America. Instead of giving a tax cut to the richest Americans who don't need it, we should take some of it and dedicate it towards the security of all Americans. Our Nation's most fortunate are just as patriotic as the middle class. They are just as willing to sacrifice for the good of our Nation. The problem is that no one has asked them to sacrifice.

The Homeland Security Trust Fund Act of 2006 will ask them to sacrifice for the good of the Nation, and I'm convinced that they will gladly help us out. And to those who say this won't work, I would remind them that the 1994 Crime Bill established the Violent Crime Reduction Trust Fund, specifically designated for public safety, that put more than 100,000 cops on the street, funded prevention programs and more prison beds to lock up violent offenders. It worked; violent crime went down every year for 8 years from the historic highs to the lowest levels in a generation.

Our Nation is at its best when we all pull together and sacrifice. Our Nation's most fortunate citizens are just as patriotic as those in the middle class, and I am confident that they will be willing to forgo 1 year of their tax cut for the greater good of securing the homeland. The bottom line is that with this legislation, we make clear what our national priorities should be, we set out how we will pay for them, and we ensure those who are asked to sacrifice, that money the government raises for security actually gets spent on security.

This legislation is about re-ordering our homeland security priorities. I realize that it will not be enacted this year, but I will introduce this legislation again in the next Congress and I will push for its prompt passage and I hope to gain the support of my colleagues in this effort.

By Mr. BUNNING:

S. 3992. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1998 to clarify the definition of manipulation with respect to currency, and for other purposes; read the first time.

Mr. BUNNING. 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. 3992

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 ''United States Fair Currency Practices Act of 2006''.

SEC. 2. FINDINGS.

(a) Congress makes the following findings:

(1) Since the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5302(3)) was enacted the global economy has changed dramatically, with increased capital account openness, a sharp increase in the flow of funds internationally, and an ever growing number of emerging market economies becoming systemically important to the global flow of goods, services, and capital. In addition, practices such as the maintenance of multiple currency regimes have become rare.

(2) Exchange rates among major trading nations are occasionally manipulated or fundamentally misaligned due to direct or indirect governmental intervention in the exchange market.

(3) A major focus of national economic policy should be a market-driven exchange rate for the United States dollar at a level consistent with a sustainable balance in the United States current account.

(4) While some degree of surpluses and deficits in payments balances may be expected, particularly in response to increasing economic globalization, large and growing imbalances raise concerns of possible disruption to financial markets. In part, such imbalances often reflect exchange rate policies that foster fundamental misalignment of currencies.

(5) Currencies in fundamental misalignment can seriously impair the ability of international markets to adjust appropriately to global capital and trade flows, threatening trade flows and causing economic harm to the United States.

(6) The effects of a fundamentally misaligned currency may be so harmful that it is essential to correct the fundamental misalignment without regard to the purpose of any policy that contributed to the misalignment.

(7) In the interests of facilitating the exchange of goods, services, and capital among countries, sustaining sound economic growth, and fostering financial and economic stability, Article IV of the International Monetary Fund's Articles of Agreement obligates each member of the International Monetary Fund to avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members.

(8) The failure of a government to acknowledge a fundamental misalignment of its currency or to take steps to correct such a fundamental misalignment, either through inaction or mere token action, is a form of exchange rate manipulation and is inconsistent with that government's obligations under Article IV of the International Monetary Fund's Articles of Agreement.

TITLE I—INTERNATIONAL MONETARY AND FINANCIAL POLICY

SEC. 101. AMENDMENTS TO DEFINITIONS.

Section 3006 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5306) is amended by adding at the end the following:

''(3) FUNDAMENTAL MISALIGNMENT.—The term 'fundamental misalignment' means a material sustained disparity between the observed levels of an effective exchange rate for a currency and the corresponding levels of an effective exchange rate for that currency that would be consistent with fundamental macroeconomic conditions based on a generally accepted economic rationale.

''(4) EFFECTIVE EXCHANGE RATE.—The term 'effective exchange rate' means a weighted average of bilateral exchange rates, expressed in either nominal or real terms.

''(5) GENERALLY ACCEPTED ECONOMIC RATIONALE.—The term 'generally accepted economic rationale' means an explanation drawn on widely recognized macroeconomic

theory for which there is a significant degree of empirical support.''.

SEC. 102. BILATERAL NEGOTIATIONS.

(a) IN GENERAL.—Section 3004(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5304(b)) is amended to read as follows:

''(b) BILATERAL NEGOTIATIONS.—

''(1) IN GENERAL.—The Secretary of the Treasury shall analyze on an annual basis the exchange rate policies of foreign countries, in consultation with the International Monetary Fund, and consider whether countries—

''(A) manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade; or

''(B) have a currency that is in fundamental misalignment.

''(2) AFFIRMATIVE DETERMINATION.—If the Secretary considers that such manipulation or fundamental misalignment is occurring with respect to countries that—

''(A) have material global current account surpluses; or

''(B) have significant bilateral trade surpluses with the United States,

the Secretary of the Treasury shall take action to initiate negotiations with such foreign countries on an expedited basis, in the International Monetary Fund or bilaterally, for the purpose of ensuring that such countries regularly and promptly adjust the rate of exchange between their currencies and the United States dollar to permit effective balance of payments adjustments and to eliminate the unfair advantage.

''(3) EXCEPTION.—The Secretary shall not be required to initiate negotiations if the Secretary determines that such negotiations would have a serious detrimental impact on vital national economic and security interests. The Secretary shall inform the chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Financial Services of the House of Representatives of the Secretary's determination.''.

SEC. 103. REPORTING REQUIREMENTS.

Section 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305) is amended to read as follows:

''SEC. 3005. REPORTING REQUIREMENTS.

''(a) REPORTS REQUIRED.—

''(1) IN GENERAL.—The Secretary, after consulting with the Chairman of the Board, shall submit to Congress, on or before October 15 of each year, a written report on international economic policy and currency exchange rates.

''(2) INTERIM REPORT.—The Secretary, after consulting with the Chairman of the Board, shall submit to Congress, on or before April 15 of each year, a written report on interim developments with respect to international economic policy and currency exchange rates.

''(b) CONTENTS OF REPORTS.—Each report submitted under subsection (a) shall contain—

''(1) an analysis of currency market developments and the relationship between the United States dollar and the currencies of major economies and United States trading partners;

''(2) a review of the economic and financial policies of major economies and United States trading partners and an evaluation of the impact that such policies have on currency exchange rates;

''(3) a description of any currency intervention by the United States or other major economies or United States trading partners, or other actions undertaken to adjust the actual exchange rate of the dollar;

''(4) an evaluation of the factors that underlie conditions in the currency markets, including—

''(A) monetary and financial conditions;

''(B) foreign exchange reserve accumulation;

''(C) macroeconomic trends;

''(D) trends in current and financial account balances;

''(E) the size and composition of, and changes in, international capital flows;

''(F) the impact of the external sector on economic changes;

''(G) the size and growth of external indebtedness;

''(H) trends in the net level of international investment; and

''(I) capital controls, trade, and exchange restrictions;

''(5) a list of currencies of the major economies or economic areas that are manipulated or in fundamental misalignment and a description of any economic models or methodologies used to establish the list;

''(6) a description of any reason or circumstance that accounts for why each currency identified under paragraph (5) is manipulated or in fundamental misalignment based on a generally accepted economic rationale;

''(7) a list of each currency identified under paragraph (5) for which the manipulation or fundamental misalignment causes, or contributes to, a material adverse impact on the economy of the United States, including a description of any reason or circumstance that explains why the manipulation or fundamental misalignment is not accounted for under paragraph (6);

''(8) the results of any prior consultations conducted or other steps taken; and

''(9)(A) a list of each occasion during the reporting period when the issue of exchange-rate misalignment was raised in a countervailing duty proceeding under subtitle A of title VII of the Tariff Act of 1930 or in an investigation under section 421 of the Trade Act of 1974;

''(B) a summary in each such instance of whether or not exchange-rate misalignment was found and the reasoning and data underlying that finding; and

''(C) a discussion regarding each affirmative finding of exchange-rate misalignment to consider the circumstances underlying that exchange-rate misalignment and what action appropriately has been or might be taken by the Secretary apart from and in addition to import relief to correct the exchange-rate misalignment.

''(c) DEVELOPMENT OF REPORTS.—The Secretary shall consult with the Chairman of the Board with respect to the preparation of each report required under subsection (a). Any comments provided by the Chairman of the Board shall be submitted to the Secretary not later than the date that is 15 days before the date each report is due under subsection (a). The Secretary shall submit the report after taking into account all comments received.''.

SEC. 104. INTERNATIONAL FINANCIAL INSTITUTION GOVERNANCE ARRANGEMENTS.

(a) INITIAL REVIEW.—Notwithstanding any other provision of law, before the United States approves a proposed change in the governance arrangement of any international financial institution, as defined in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)), the Secretary of the Treasury shall determine whether any member of the international financial institution that would benefit from the proposed change, in the form of increased voting shares or representation, has a currency that is manipulated or in fundamental misalignment, and if so, whether the manipulation or fundamental misalignment causes or contributes to a material adverse impact on the economy of the United States. The determination shall be reported to Congress.

(b) SUBSEQUENT ACTION.—The United States shall oppose any proposed change in the governance arrangement of any international financial institution (as defined in subsection (a)), if the Secretary renders an affirmative determination pursuant to subsection (a).

(c) FURTHER ACTION.—The United States shall continue to oppose any proposed change in the governance arrangement of an international financial institution, pursuant to subsection (b), until the Secretary determines and reports to Congress that the currency of each member of the international financial institution that would benefit from the proposed change, in the form of increased voting shares or representation, is neither manipulated nor in fundamental misalignment.

SEC. 105. NONMARKET ECONOMY STATUS.

(a) IN GENERAL.—Paragraph (18)(B)(vi) of section 771 of the Tariff Act of 1930 (19 U.S.C. 1677(18)(B)(vi)) is amended by inserting before the end period the following: '', including whether the currency of the foreign country has been identified pursuant to section 3005(b)(7) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305(b)(7)) in any written report required by such section 3005(b)(7) during the 24-month period immediately preceding the month during which the administering authority seeks to revoke a determination that such foreign country is a nonmarket economy country''.

(b) TERMINATION.—The amendment made by this section shall apply during the 10-year period beginning on the date of the enactment of this Act.

TITLE II—SUBSIDIES AND PRODUCT-SPECIFIC SAFEGUARD MECHANISM

SEC. 201. FINDINGS.

Congress makes the following findings:

(1) The economy and national security of the United States are critically dependent upon a vibrant manufacturing and agricultural base.

(2) The good health of United States manufacturing and agriculture requires, among other things, unfettered access to open markets abroad and fairly traded raw materials and products in accord with the international legal principles and agreements of the World Trade Organization and the International Monetary Fund.

(3) The International Monetary Fund, the G–8, and other international organizations have repeatedly noted that exchange-rate misalignment can cause imbalances in the international trading system that could ultimately undercut the stability of the system, but have taken no action to address such misalignments and imbalances.

(4) Since 1994, the People's Republic of China and other countries have aggressively intervened in currency markets and taken measures that have significantly misaligned the values of their currencies against the United States dollar and other currencies.

(5) This policy by the People's Republic of China, for example, has resulted in substantial undervaluation of the renminbi, by up to 40 percent or more.

(6) Evidence of this undervaluation can be found in the large and growing annual trade surpluses of the People's Republic of China; substantially expanding foreign direct investment in China; and the rapidly increasing aggregate amount of foreign currency reserves that are held by the People's Republic of China.

(7) Undervaluation by the People's Republic of China and by other countries acts as both a subsidy for their exports and as a nontariff barrier against imports into their territories, to the serious detriment of United States manufacturing and agriculture.

(8)(A) As members of both the World Trade Organization and the International Monetary Fund, the People's Republic of China and other countries have assumed a series of international legal obligations to eliminate all subsidies for exports and to facilitate international trade by fostering a monetary system that does not tend to produce erratic disruptions, that does not prevent effective balance-of-payments adjustment, and that does not gain unfair competitive advantage.

(B) These obligations are most prominently set forth in Articles VI, XV, and XVI of the GATT 1994 (as defined in section 2(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 3501(1)(B)), in the Agreement on Subsidies and Countervailing Measures (as defined in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)), and in Articles IV and VIII of the International Monetary Fund's Articles of Agreement.

(9) Under the foregoing circumstances, it is consistent with the international legal obligations of the People's Republic of China and similarly situated countries and with the corresponding international legal rights of the United States to amend relevant United States trade laws to make explicit that exchange-rate misalignment is actionable as a countervailable export subsidy.

SEC. 202. CLARIFICATION TO INCLUDE EXCHANGE-RATE MISALIGNMENT AS A COUNTERVAILABLE SUBSIDY UNDER TITLE VII OF THE TARIFF ACT OF 1930.

(a) AMENDMENTS TO DEFINITION OF COUNTERVAILABLE SUBSIDY.—

(1) FINANCIAL CONTRIBUTION.—Section 771(5)(D) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(D)) is amended—

(A) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively;

(B) by striking ''The term'' and inserting ''(i) The term''; and

(C) by adding at the end the following:

''(ii) Exchange-rate misalignment (as defined in paragraph (5C)) constitutes a financial contribution within the meaning of subclauses I and III of clause (i).''.

(2) BENEFIT CONFERRED.—Section 771(5)(E) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(E)) is amended—

(A) in clause (iii), by striking '', and'' and inserting a comma;

(B) in clause (iv), by striking the period at the end and inserting '', and''; and

(C) by adding at the end the following new clause:

''(v) in the case of exchange-rate misalignment (as defined in paragraph (5C)), if the price of exported goods in United States dollars is less than what the price of such goods would be without the exchange-rate misalignment.''.

(3) SPECIFICITY.—Section 771(5A)(B) of the Tariff Act of 1930 (19 U.S.C. 1677(5A)(B)) is amended by adding at the end before the period the following: '', such as exchange-rate misalignment (as defined in paragraph (5C))''.

(b) DEFINITION OF EXCHANGE-RATE MISALIGNMENT.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by inserting after paragraph (5B) the following new paragraph:

''(5C) EXCHANGE-RATE MISALIGNMENT.—

''(A) IN GENERAL.—For purposes of paragraphs (5) and (5A), the term 'exchange-rate misalignment' means a significant undervaluation of a foreign currency as a result of protracted large-scale intervention by or at the direction of a governmental authority in exchange markets. Such undervaluation shall be found when the observed exchange rate for a foreign currency is significantly below the exchange rate that could reasonably be expected for that foreign currency absent the intervention.

''(B) FACTORS.—In determining whether exchange-rate misalignment is occurring and a benefit thereby is conferred, the administering authority in each case—

''(i) shall consider the exporting country's—

''(I) bilateral balance-of-trade surplus or deficit with the United States;

''(II) balance-of-trade surplus or deficit with its other trading partners individually and in the aggregate;

''(III) foreign direct investment in its territory;

''(IV) currency-specific and aggregate amounts of foreign currency reserves; and

''(V) mechanisms employed to maintain its currency at an undervalued exchange rate relative to another currency and, particularly, the nature, duration, and monetary expenditures of those mechanisms;

''(ii) may consider such other economic factors as are relevant; and

''(iii) shall measure the trade surpluses or deficits described in subclauses (I) and (II) of clause (i) with reference to the trade data reported by the United States and the other trading partners of the exporting country, unless such trade data are not available or are demonstrably inaccurate, in which case the exporting country's trade data may be relied upon if shown to be sufficiently accurate and trustworthy.

''(C) COMPUTATION.—In calculating the extent of exchange-rate misalignment, the administering authority shall, in consultation with the Treasury Department and the Federal Reserve, develop and apply an objective methodology that is consistent with widely recognized macroeconomic theory and shall rely upon governmentally published and other publicly available data.

''(D) TYPE OF ECONOMY.—An authority found to be engaged in exchange-rate misalignment may have either a market economy or a nonmarket economy or a combination thereof.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to a countervailing duty proceeding initiated under subtitle A of title VII of the Tariff Act of 1930 before, on, or after the date of enactment of this Act.

SEC. 203. CLARIFICATION TO INCLUDE EXCHANGE-RATE MISALIGNMENT BY THE PEOPLE'S REPUBLIC OF CHINA AS A CONDITION TO BE CONSIDERED WITH RESPECT TO MARKET DISRUPTION UNDER CHAPTER 2 OF TITLE IV OF THE TRADE ACT OF 1974.

(a) MARKET DISRUPTION.—

(1) IN GENERAL.—Section 421(c) of the Trade Act of 1974 (19 U.S.C. 2451(c)) is amended by adding at the end the following new paragraphs:

''(3) For purposes of this section, the term 'under such conditions' includes exchange-rate misalignment (as defined in paragraph (4)).''.

''(4)(A) For purposes of this section, the term 'exchange-rate misalignment' means a significant undervaluation of the renminbi as a result of protracted large-scale intervention by or at the direction of the Government of the People's Republic of China in exchange markets. Such undervaluation shall be found when the observed exchange rate for the renminbi is significantly below the exchange rate that could reasonably be expected for the renminbi absent the intervention.

''(B) In determining whether exchange-rate misalignment is occurring, the Commission in each case—

''(i) shall consider the People's Republic of China's—

''(I) bilateral balance-of-trade surplus or deficit with the United States;

''(II) balance-of-trade surplus or deficit with its other trading partners individually and in the aggregate;

''(III) foreign-direct investment in its territory;

''(IV) currency-specific and aggregate amounts of foreign currency reserves; and

''(V) mechanisms employed to maintain its currency at an undervalued exchange rate relative to another currency and, particularly, the nature, duration, and monetary expenditures of those mechanisms;

''(ii) may consider such other economic factors as are relevant; and

''(iii) shall measure the trade surpluses or deficits described in subclauses (I) and (II) of clause (i) with reference to the trade data reported by the United States and the other trading partners of the People's Republic of China, unless such trade data are not available or are demonstrably inaccurate, in which case the trade data of the People's Republic of China may be relied upon if shown to be sufficiently accurate and trustworthy.

''(C) In calculating the extent of exchange-rate misalignment, the Commission shall, in consultation with the Treasury Department and the Federal Reserve, develop and apply an objective methodology that is consistent with widely recognized macroeconomic theory and shall rely upon governmentally published and other publicly available data.''.

(b) CRITICAL CIRCUMSTANCES.—Section 421(i)(1) of the Trade Act of 1974 (19 U.S.C. 2451(i)(1)) is amended—

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

(2) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(3) by inserting after subparagraph (B) the following new subparagraph:

''(C) if the petition alleges and reasonably documents that exchange-rate misalignment is occurring, such exchange-rate misalignment shall be considered as a factor weighing in favor of affirmative findings in subparagraphs (A) and (B).''.

(c) STANDARD FOR PRESIDENTIAL ACTION.—Section 421(k)(2) of the Trade Act of 1974 (19 U.S.C. 2451(k)(2)) is amended by adding at the end the following new sentence: ''If the Commission makes an affirmative determination that exchange-rate misalignment is occurring, the President shall consider such exchange-rate misalignment as a factor weighing in favor of providing import relief in accordance with subsection (a).''.

(d) MODIFICATIONS OF RELIEF.—Section 421(n)(2) of the Trade Act of 1974 (19 U.S.C. 2451(n)(2)) is amended by adding at the end the following new sentence: ''If the Commission affirmatively determines that exchange-rate misalignment is occurring, the Commission and the President shall consider such exchange-rate misalignment as a factor weighing in favor of finding that continuation of relief is necessary to prevent or remedy the market disruption at issue.''.

(e) EXTENSION OF ACTION.—Section 421(o) of the Trade Act of 1974 (19 U.S.C. 2451(o)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: ''If the Commission makes an affirmative determination that exchange-rate misalignment is occurring, the Commission shall consider such exchange-rate misalignment as a factor weighing in favor of finding that an extension of the period of relief is necessary to prevent or remedy the market disruption at issue.''; and

(2) in paragraph (4), by adding at the end the following new sentence: ''If the Commission makes an affirmative determination that exchange-rate misalignment is occurring, the President shall consider such exchange-rate misalignment as a factor weighing in favor of finding that an extension of the period of relief is necessary to prevent or remedy the market disruption at issue.''.

(f) EFFECTIVE DATE.—The amendments made by this section apply with respect to an investigation initiated under chapter 2 of title IV of the Trade Act of 1974 before, on, or after the date of the enactment of this Act.

SEC. 204. PROHIBITION ON PROCUREMENT BY THE DEPARTMENT OF DEFENSE OF CERTAIN DEFENSE ARTICLES IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA.

(a) COPY OF PETITION, REQUEST, OR RESOLUTION TO BE TRANSMITTED TO THE SECRETARY OF DEFENSE.—Section 421(b)(4) of the Trade Act of 1974 (19 U.S.C. 2451(b)(4)) is amended by inserting '', the Secretary of Defense'' after '', the Trade Representative''.

(b) DETERMINATION OF SECRETARY OF DEFENSE.—Section 421(b) of the Trade Act of 1974 (19 U.S.C. 2451(b)) is amended by adding at the end the following new paragraph:

''(6) Not later than 15 days after the date on which an investigation is initiated under this subsection, the Secretary of Defense shall submit to the Commission a report in writing which contains the determination of the Secretary as to whether or not the articles of the People's Republic of China that are the subject of the investigation are like or directly competitive with articles produced by a domestic industry that are critical to the defense industrial base of the United States.''.

(c) PROHIBITION ON PROCUREMENT BY THE DEPARTMENT OF DEFENSE OF CERTAIN DEFENSE ARTICLES.—

(1) PROHIBITION.—If the United States International Trade Commission makes an affirmative determination under section 421(b) of the Trade Act of 1974 (19 U.S.C. 2451(b)), or a determination which the President or the United States Trade Representative may consider as affirmative under section 421(e) of such Act (19 U.S.C. 2451(e)), with respect to articles of the People's Republic of China that the Secretary of Defense has determined are like or directly competitive with articles produced by a domestic industry that are critical to the defense industrial base of the United States, the Secretary of Defense may not procure, directly or indirectly, such articles of the People's Republic of China.

(2) WAIVER.—The President may waive the application of the prohibition contained in paragraph (1) on a case-by-case basis if the President determines and certifies to Congress that it is in the national security interests of the United States to do so.

SEC. 205. APPLICATION TO GOODS FROM CANADA AND MEXICO.

Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act of 1993 (19 U.S.C. 3438), the amendments made by sections 105 and 202 of this Act shall apply to goods from Canada and Mexico.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 589—COMMENDING NEW YORK STATE SENATOR JOHN J. MARCHI ON HIS 50 YEARS IN THE NEW YORK STATE SENATE AND ON BECOMING THE LONGEST SERVING STATE LEGISLATOR IN THE UNITED STATES

Mr. SCHUMER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 589

Whereas New York State Senator John J. Marchi has been recognized by the National Conference of State Legislatures as the longest serving state legislator in the United States;

Whereas State Senator Marchi was born on May 20, 1921, in Staten Island and attended local primary and secondary schools in New York, then Manhattan College, from which he graduated with first honors in 1942, St. John's University School of Law, from which he received a law degree, and Brooklyn Law School, from which he received an advanced degree in law;

Whereas, during World War II, State Senator Marchi served in the United States Coast Guard and saw combat in the Atlantic and Pacific theaters and in the China Sea, and subsequently served in the United States Naval Reserve until 1982;

Whereas, in 1956, State Senator Marchi was elected to the New York State Senate and has served the citizens of Senate District 24 for 50 years, making him the longest serving state legislator in the United States;

Whereas State Senator Marchi served as a delegate to the New York Constitutional Convention in 1967;

Whereas State Senator Marchi is a recognized leader of the New York State Senate and was named Assistant Majority Leader on Conference Operations in January 2005, Assistant Majority Whip in 2003, Chairman of the Senate Committee on Corporations, Authorities and Commissions in 1995, and Vice President Pro Tempore in 1989;

Whereas, prior to holding these offices, State Senator Marchi served as Chairman of the Finance Committee for 15 years;

Whereas State Senator Marchi is a tireless leader and advocate for New York City, has served on the City of New York Committee in the New York State Senate, and was named Chairman of the Temporary State Commission on New York City School Governance in 1989, a panel of civic, governmental, business, and educational leaders that conducted a 2-year examination of the control of the city schools and, in 1991, gave the State legislature a package of proposals intended to improve the administration of, and public participation in, the New York City school system;

Whereas State Senator Marchi is widely recognized as one of the city and State leaders who helped write the laws that saved New York City from financial collapse in the mid-1970s;

Whereas State Senator Marchi sponsored the bill, now law, that modernized New York State's financial reporting and bookkeeping practices so that the legislature and the public could see more clearly the State government's actual fiscal condition;

Whereas, in 1997, State Senator Marchi successfully advanced—and saw passed and signed into law—a bill to require the closing by January 1, 2002 of the Fresh Kills Landfill, Staten Island's worst environmental problem for more than half a century, which the legislature had not previously scheduled for closure;

Whereas State Senator Marchi has also been a leader in the development of legislation to strengthen public education from kindergarten through graduate school;

Whereas State Senator Marchi has been a member of the Executive Committee and Board of Governors of the Council of State Governments since 1965, is a former Chairman of the Committee, and was designated the first permanent member of the Committee in 1982;

Whereas, in 1969 and 1973, State Senator Marchi was the candidate of the Republican Party for the Office of Mayor of the City of New York;

Whereas, in October 1972, State Senator Marchi was appointed by President Nixon to serve as the only legislator on the National Advisory Committee on Drug Abuse Prevention;

Whereas, following the September 11, 2001 attacks, the New York Senate Majority Leader appointed State Senator Marchi to head the New York Senate Task Force on World Trade Center Recovery, which was to help oversee the reconstruction of Ground Zero;

Whereas, on June 2, 1968, State Senator Marchi received from the President and Prime Minister of Italy the highest award that country bestows on a nonresident, the award of Commander of the Order of Merit of the Republic of Italy, and in 1992, the Senator received another of Italy's most prestigious honors, the Filippo Mazzei Award, in recognition of his public service and for helping to strengthen relations between the United States and Italy;

Whereas State Senator Marchi is the recipient of the Mills G. Skinner Award of the National Urban League, an organization devoted to empowering African Americans to enter the economic and social mainstream;

Whereas, in 1976, the New York State Veterans of Foreign Wars conferred upon the Senator the Silver Commendation Medal for ''legislative service to veterans and all New Yorkers''; and

Whereas, in 1971, State Senator Marchi was awarded the degree of Doctor of Laws, honoris causa, from St. John's University and, in 1973, received the same degree from Manhattan College, and in 1974, was awarded the degree of Doctor of Laws from Wagner College: Now, therefore, be it

Resolved, That the Senate commends New York State Senator John J. Marchi for his 50-year tenure in the New York State Senate, on becoming the longest serving state legislator in the United States, and on his lifelong commitment to the citizens of Staten Island and New York.

SENATE RESOLUTION 590—DESIGNATING THE SECOND SUNDAY IN DECEMBER 2006, AS ''NATIONAL CHILDREN'S MEMORIAL DAY'' IN CONJUNCTION WITH THE COMPASSIONATE FRIENDS WORLDWIDE CANDLE LIGHTING

Mr. VITTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 590

Whereas approximately 200,000 infants, children, teenagers, and young adults of families living throughout the United States die each year from a myriad of causes;

Whereas stillbirth, miscarriage, and the death of an infant, child, teenager, or young adult are considered some of the greatest tragedies that a parent or family could ever endure;