DURBIN) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 3572, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 225th anniversary of the establishment of the Nation's first law enforcement agency, the United States Marshals Service.

S. 3591

At the request of Mr. ROCKEFELLER, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 3591, a bill to provide financial incentives and a regulatory framework to facilitate the development and early deployment of carbon capture and sequestration technologies, and for other purposes.

S. 3654

At the request of Mr. LEAHY, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 3654, a bill to amend title 11 of the United States Code to include firearms in the types of property allowable under the alternative provision for exempting property from the estate.

S. 3657

At the request of Mr. WYDEN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 3657, a bill to establish as a standing order of the Senate that a Senator publicly disclose a notice of intent to objecting to any measure or matter.

S. 3661

At the request of Mr. BENNET, his name was added as a cosponsor of S. 3661, a bill to amend the Federal Water Pollution Control Act to ensure the safe and proper use of dispersants in the event of an oil spill or release of hazardous substances, and for other purposes.

S. 3667

At the request of Mr. KERRY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3667, a bill to amend part A of title IV of the Social Security Act to exclude child care from the determination of the 5-year limit on assistance under the temporary assistance to needy families program, and for other purposes.

S. 3706

At the request of Ms. STABENOW, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. 3706, a bill to extend unemployment insurance benefits and cut taxes for businesses to create hiring incentives, and for other purposes.

S. CON. RES. 63

At the request of Mr. JOHNSON, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. Con. Res. 63, a concurrent resolution expressing the sense of Congress that Taiwan should be accorded observer status in the International Civil Aviation Organization (ICAO).

S. RES. 322

At the request of Mr. LEVIN, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Res. 322, a resolution expressing the sense of the Senate on religious minorities in Iraq.

S. RES. 586

At the request of Mr. FEINGOLD, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of S. Res. 586, a resolution supporting democracy, human rights, and civil liberties in Egypt.

S. RES. 593

At the request of Mrs. MURRAY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. Res. 593, a resolution expressing support for designation of October 7, 2010, as ''Jumpstart's Read for the Record Day''.

AMENDMENT NO. 4531

At the request of Mr. JOHANNS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of amendment No. 4531 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY:

S. 3711. A bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, education, research, and medical management referral program for viral hepatitis infection that will lead to a marked reduction in the disease burden associated with chronic viral hepatitis and liver cancer; to the Committee on Health, Education, Labor, and Pensions.

Mr. KERRY. Mr. President, a silent killer is loose in America. It contributes to the deaths of 15,000 and threatens the health of 5.3 million Americans each year. It is more common than HIV/AIDS. It is the leading cause of liver cancer, which is on the rise and continues to be a fatal and costly disease. Yet it remains unrecognized as a serious threat to public health. This silent killer is viral hepatitis.

That is why I am introducing the Viral Hepatitis and Liver Cancer Control and Prevention Act of 2010, which authorizes $600 million to develop a national strategy over the next five years to prevent and control Hepatitis B and C.

Most people don't even know they have it until years later when it causes cancer or liver disease. We can help avoid such needless tragedies with prevention and surveillance programs and by educating Americans on the pervasive nature of Hepatitis B and Hepatitis C.

In January, the Institute of Medicine, IOM, released a report entitled ''Hepatitis and Liver Cancer.'' The report concludes that the current approach toward treating hepatitis is not working. Too many Americans at-risk for hepatitis or living with it do not know it and too many health providers are not screening for it. That should come as no surprise because there is no Federal funding of core public health services for viral hepatitis. Also, there is no federally funded chronic Hepatitis B and C surveillance system.

The IOM report calls for a national strategy to prevent and control Hepatitis B and C.

Hepatitis B is 100 times more infectious than HIV and, left untreated, can cause liver disease, liver cancer and premature death decades after infection. About 2 billion people worldwide have been infected with Hepatitis B and about 170 million people are chronically infected with Hepatitis C. Tragically, ⅔ of those infected, on average, are unaware of their status, which increases the chance of spreading the disease.

Dr. Howard Koh, Assistant Secretary of Health, has convened a task force including representatives from all Department of Health and Human Services agencies to develop an action plan to implement the recommendations of the Institute of Medicine Report.

Unless action is taken to prevent chronic Hepatitis B and Hepatitis C, thousands more Americans will die each year from liver cancer or liver disease related to these preventable diseases.

The Viral Hepatitis and Liver Cancer Control and Prevention Act directs the Secretary of Health and Human Services to develop a national plan for the prevention, control and medical management of viral hepatitis in coordination with the Centers for Disease Control and Prevention, CDC, the National Institutes for Health, the National Cancer Institute, NCI, the Health Resources and Services Administration, the Substance Abuse and Mental Health Services Administration, SAMHSA, the Agency for Healthcare Research and Quality and the Department of Veterans Affairs.

The national plan is required to include the following components: education and awareness programs; an expansion of current vaccination programs; counseling regarding the ongoing risk factors associated with viral hepatitis; support for medical evaluation and ongoing medical management; increased support for adult viral hepatitis coordinators; and the establishment of an epidemiological surveillance program to identify trends in incidence and prevalence in the disease.

The Viral Hepatitis and Liver Cancer Control and Prevention Act of 2010 also

enhances SAMHSA's role in hepatitis activities by providing the agency with the authority to develop educational materials and intervention strategies to reduce the risks of hepatitis among substance abusers and individuals with mental illness.

It authorizes nearly $600 million over the next five years to fund the national strategy to prevent and control viral hepatitis.

I believe this investment in hepatitis control and prevention could save our country billions of dollars in the coming years. The baby boomer population is estimated to account for two out of every three cases of chronic Hepatitis C. As these Americans age into Medicare they are likely to develop complications and require expensive medical interventions at great cost to taxpayers. In the next decade, the costs of Hepatitis C to commercial insurance and Medicare will more than double, and within 20 years Medicare costs will increase five-fold. Projecting further out, over the next 20 years, total medical costs for patients with Hepatitis C infection could increase more than 2.5 times—from $30 billion to more than $85 billion.

However, the costs for early detection and intervention are dramatically less than the costs for treatment post-infection. The costs for Hepatitis B vaccinations vary but range from $75 to $165, whereas treatment can cost up to $16,000 per year. Screening for Hepatitis C is also relatively inexpensive compared to treatment that can cost up to $25,000 per year. Untreated, these infections will develop into liver disease that can cost up to $110,000 per hospital admission. We can do better.

Viral hepatitis is an increasingly significant issue for Massachusetts. The Massachusetts Department of Public Health reports over 2,000 cases of newly diagnosed chronic Hepatitis B infection and 8,000 to 10,000 cases of newly diagnosed chronic Hepatitis C infection each year. Viral hepatitis infections are by far the highest volume of reportable infectious diseases to the state. Additionally, there has been and continues to be a striking increase of cases of Hepatitis C infection among adolescents and young adults in the state. The Department of Public Health has received reports on over 1,000 cases in people under the age of 25 years every year since 2007, indicating that there is a new epidemic of Hepatitis C disease.

Resources to address these complex problems have been extremely limited. Federal resources are scarce with the average award per state of $90,000 from the Division of Viral Hepatitis at CDC. That is less than the cost of one hospital admission for liver disease.

The Massachusetts State Legislature has, until recently, provided modest funding to support Hepatitis C initiatives in the state. At this time, all of that funding, $1.4 million annually for the past several years, has been eliminated due to the ongoing fiscal crisis. However, past funding has allowed Massachusetts to develop innovative programs in many areas.

State funds have supported disease surveillance initiatives so that changes in the epidemics can be detected, such as the increase of cases of Hepatitis C infection among young people or to identify cases of viral hepatitis that are being transmitted through non-sterile practices in health care settings. Disease surveillance programs have been used to identify women of childbearing age that are infected with Hepatitis B so that transmission to their babies can be prevented.

The Viral Hepatitis and Liver Cancer Control and Prevention Act of 2010 would provide critical assistance to Massachusetts and other states by starting to provide appropriate levels of funding to address these epidemics of disease.

In Massachusetts, funding would be used to expand disease surveillance efforts so that we can better understand the impact of these infections and direct services appropriately to highly impacted communities. It would help to expand screening and educational services to help identify the large numbers of people in the state living with Hepatitis B and C that have not been identified. It would provide support to address the complex prevention needs of adolescents and young adults who are using drugs and at-risk for infection.

Increased funding for adult immunization would assist the State in better targeting and providing Hepatitis B vaccine to the adults at highest risk, including those that are incarcerated and being treated for drug abuse. Finally, it would also help to provide essential medical management for people already infected with Hepatitis B and C who are not able to access appropriate care currently.

I would like to thank a number of organizations who have been integral to the development of the Viral Hepatitis and Liver Cancer Control and Prevention Act of 2010. I am pleased that 102 hepatitis focused organizations from across the Nation have endorsed the legislation, including the National Viral Hepatitis Roundtable, National Alliance of State and Territorial AIDS Directors, NASTAD, the Hepatitis B Foundation, the Hepatitis C Association, American Association for the Study of Liver Disease, and the Hepatitis Education Project.

We have no time to waste. This legislation, along with strategic investments in public health and prevention programs, can save billions of hard earned taxpayer dollars. It can improve the quality of life for tens of thousands of people all over America. I urge my colleagues to support activities that promote early detection and education and to cosponsor this important legislation.

By Mr. CORNYN (for himself, Mr. CRAPO, and Mr. ROBERTS):

S. 3712. A bill to rescind the 3.8 percent tax on the investment income of the American people and to promote job creation and small businesses; to the Committee on Finance.

Mr. CORNYN. Mr. President, today I am introducing the Economic Growth and Jobs Protection Act of 2010. This legislation would repeal the 3.8 percent tax on investment income that was included in the Health Care Reconciliation Act of 2010, P.L. 111–152, signed into law by the President earlier this year. I am pleased that Senator ROBERTS and Senator CRAPO are cosponsors of this legislation.

We know that taxpayers already face the largest tax increase in history when the 2001 and 2003 tax relief expire at the end of the year. Unless Congress acts, in less than 150 days: the highest individual tax bracket will rise from 35 percent to just under 40 percent; people in the lowest tax bracket will see a 50 percent tax increase, from 10 percent to 15 percent; the marriage penalty will increase; the child credit will be cut in half; and taxes on capital gains and dividends will increase. In other words, every taxpayer will pay higher taxes to Washington.

But while taxpayers may be concerned about the upcoming tax shock, many may not be aware of another unpleasant surprise that will soon follow. The Health Care Reconciliation Act that was jammed through the Senate along partisan lines includes a $123 billion tax on the capital gains, dividends, rents, and interest earned by certain taxpayers. Enacting this permanent tax hike was a mistake then and is a mistake now. It will discourage savings and investment; it will reduce productivity and will depress wages and the standard of living for millions of Americans. According to the Institute for Research on the Economics of Taxation—a non-profit economic policy research and educational organization, a 2.9 percent tax would depress economic growth by 1.3 percent and reduce capital formation by 3.4 percent. The damage on job and economic growth would be even greater from a 3.8 percent investment tax.

Simply put, increasing taxes on investment income is a job killer and increases uncertainty at a time that the Chairman of the Federal Reserve has told Congress that the economic outlook is ''unusually uncertain.'' Taxpayers, including small businesses, are already scheduled to get hit with the largest tax increase in history in less than 160 days if Congress fails to act. In fact, the top tax rate on capital gains will eventually be 23.8 percent as the rate bounces back to 20 percent from 15 percent. And the top tax rate for dividends will eventually rise to 43.4 percent.

Why do we want to pile on the backs of working families and job creators with more taxes that do nothing to create jobs at a time that the national unemployment rate remains 9.5 percent and where in some States, such as Nevada, there is record unemployment? We know the key to job creation is to

grow the economy and allow small businesses to flourish, invest and create jobs.

In fact, according to the Federal Reserve Bank of Boston, we will need several years of very strong growth to reach 5 percent unemployment. For example, to reach 5 percent unemployment by the end of 2013, the economy would need to average 5 percent per year. To reach 5 percent unemployment by 2015 would still take growth of 4.2 percent a year. This is just one reason, that during the health care debate I offered a motion that would have directed the Senate Finance Committee to report the bill back without the 3.8 percent tax on the investment income. Although my attempt to strip out this job-killing tax fell short, I want to take this opportunity to note that 6 of my colleagues on the other side of the aisle supported my motion.

Not only will this legislation protect jobs and the investment security of taxpayers, it will also make sure that Congress restores one of the President's campaign promises. On September 12, 2008, then-candidate Obama promised the American people that, ''Everyone in America—everyone—will pay lower taxes than they would under the rates Bill Clinton had in the 1990s.'' But when combined with the President's budget proposal, this additional tax on investment will raise taxes on many Americans higher than they were under the rates President Clinton had in the 1990s.

I ask that my colleagues support this legislation that will repeal this job-killing tax on small business investment, and thus will protect economic growth, jobs, and the retirement savings of taxpayers. 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. 3712

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 ''Economic Growth and Jobs Protection Act of 2010''.

SEC. 2. REPEAL OF UNEARNED INCOME MEDICARE CONTRIBUTION.

Section 1402 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152) and the amendments made by such section are repealed.

By Mr. FEINGOLD:

S. 3713. A bill to improve post-employment restrictions on representation of foreign entities by senior Government officers and employees; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, I am pleased to introduce legislation that will tighten restrictions on individuals who move between the public and private sector—the so-called revolving door. The legislation that I am introducing today aims to better protect the United States from conflicts of interest posed by this practice, particularly where it comes to senior government officials and employees going on to represent foreign entities—sometimes even the governments of the very foreign countries in which they had just finished representing the United States.

There was a time when public service was held in high esteem, but the ever expanding revolving door between public and private employment has generated cynicism and frustration. By placing meaningful restrictions on how quickly former officials can access this door and where it will take them, we can reverse the trend of government employees going off to lobby for foreign entities by making clear they are not ''for sale.'' This legislation is an important reminder that public service should be treated as an honor and a privilege, and will help to ensure that government officials make decisions based on the best interests of the American people, and not on their future career prospects.

Foreign governments and businesses have come to rely on U.S. lobbyists to advocate for their interests and interact with key policy makers. According to an article in the Milwaukee Journal Sentinel earlier this year, data analyzed by watchdog groups found that ''[m]ore than 340 foreign entities—from governments to separatist groups to for-profit companies—spent at least $87 million on lobbying efforts in the United States between July 2007 and December 2008.'' Former senior government officials are in demand to represent or advise foreign entities after leaving office. Even from the limited data available, it appears at least four recent U.S. Ambassadors—the President's chief representatives abroad—have done this kind of work in recent years. It is not just ambassadors who go on to represent foreign entities, but also deputy secretaries, under secretaries, other categories of executive branch officials, and, of course, former members of Congress.

The bill I am introducing today will strengthen the post-employment restrictions on foreign entity representation that are already in place by both length and scope. It will cover those officials, including in the legislative branch, that are already subject to revolving door restrictions, but expand the current 1-year restriction on representing, aiding or advising a foreign entity with intent to influence to 5 years. It will also expand the definition of prohibited entities to include foreign businesses as well as foreign governments and political parties.

Revolving door restrictions are supposed to protect the U.S. Government and the people it serves from conflicts of interest and from Government officials appearing to cash in on their public service. They help ensure that people representing the United States at the most senior levels are not being influenced by the possibility of securing lucrative jobs from outside entities while still in Government and they help prevent inside knowledge and personal connections to colleagues still in Government from being used on behalf of private parties. These are clearly important and legitimate goals and the current 1-year prohibition on foreign entity representation is insufficient to secure them.

Critics of tightening these restrictions may argue that former Government officials lobbying on behalf of foreign governments can sometimes pursue very laudable aims for those governments, such as securing resources for public health needs. This is surely true. But for every such positive example envisioned, another can come to mind that is notably less constructive, such as lobbying on behalf of governments with reprehensible human rights records. Moreover, I question how healthy it is when a culture of lobbying becomes so prevalent that foreign governments seeking to advance their objectives in the United States may feel obliged to hire their own advocates in this country.

We need to restore faith in government, and we can help to do that by ensuring those who serve at the highest levels do not turn around and use their influence and expertise gained during public service for personal profit and foreign interests. My legislation will help buttress the framework of restrictions that we as members of the Government impose on ourselves to ensure this broader good. I urge my colleagues to support it.

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. 3713

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

SECTION 1. RESTRICTIONS RELATING TO FOREIGN ENTITIES.

(a) IN GENERAL.—Section 207(f) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ''1 year'' and inserting ''5 years''; and

(2) by striking paragraph (3) and inserting the following:

''(3) DEFINITION.—In this subsection, the term 'foreign entity' means—

''(A) the government of a foreign country, as defined in section 1(e) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(e));

''(B) a foreign political party, as defined in section 1(f) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(f)); and

''(C) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 141(b)(3) of the Trade Act of 1974 (19 U.S.C. 2171(b)(3)) is amended by striking ''(as defined by section 207(f)(3) of title 18, United States Code)'' and inserting ''described in subparagraph (A) or (B) of section 207(f)(3) of title 18, United States Code,''.

(c) EFFECTIVE DATE AND APPLICABILITY.—The amendments made by subsection (a) shall—

(1) take effect on the date of enactment of this Act; and

(2) apply to any individual who leaves a position, office, or employment to which the amendments apply on or after the date of enactment of this Act.

By Mr. LEAHY (for himself, Mr. GRASSLEY, Mr. CORNYN, and Mr. KAUFMAN):

S. 3717. A bill to amend the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 to provide for certain disclosures under section 552 of title 5, United States Code, (commonly referred to as the Freedom of Information Act), and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, I am pleased to introduce an important bipartisan bill to ensure that the Freedom of Information Act, FOIA, remains an effective tool to provide public access to critical information about the stability of our financial markets. My bill would amend the Securities and Exchange Act, the Investment Company Act and the Investment Advisers Act to eliminate several broad FOIA exemptions for Security and Exchange Commission records that were recently enacted as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act. I thank Senators CORNYN, KAUFMAN and GRASSLEY for cosponsoring this important open government bill.

I am a proud supporter of the historic Wall Street reform bill that has now become law, because this legislation makes significant strides toward enhancing transparency and accountability in our financial system. But, I am concerned that the FOIA exemptions in Section 929I of that bill, which was originally drafted in the House of Representatives and included in the final law, could be interpreted and implemented by the SEC in a way that undermines this very important goal.

The Freedom of Information Act has long been the people's window into their Government, showing where the Government is doing things right, but also where Government can do better. The FOIA has also long recognized the need to balance the Government's legitimate interest in protecting confidential business records, trade secrets and other sensitive information from public disclosure and the public's right to know. To accomplish this, care must always be taken to ensure that exemptions to FOIA's disclosure requirements are narrowly and properly applied.

When Congress enacted these exemptions, we were seeking to ensure that the SEC had access to the information that the Commission needs to carryout its new enforcement powers and to protect American investors—not shielding information from the public.

I have been troubled by the Commission's attempts in recent weeks to retroactively apply these exemptions to pending FOIA matters. I am also troubled by the sweeping interpretation that the Commission has expressed, to date, that these exemptions would shield all information provided to the Commission in connection with its broad examination and surveillance activities.

This week, I called on the Commission to promptly issue guidelines that interpret the FOIA exemptions in Section 929I in a manner that is both consistent with congressional intent and with the President's January 21, 2009, Executive Memorandum on the Freedom of Information Act. I look forward to the public release of those guidelines. Given the overwhelming public interest in restoring stability and accountability to our financial system, Congress must also take steps to address concerns about the exemptions in Section 929I.

I thank the many open government organizations, including OpenTheGovernment.org, the Project on Government Oversight, the American Library Association and the Sunlight Foundation for their support of this bill.

I have said many times that open government is neither a Democratic issue, nor a Republican issue—it is truly an American value and virtue that we all must uphold. It is in this bipartisan spirit that Senators from both sides of the aisle have joined me in supporting this bill. I look forward to working with them and others in Congress to ensure that the American public has access to important information about the SEC's oversight of our financial markets.

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

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

S. 3717

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

SECTION 1. APPLICATION OF THE FREEDOM OF INFORMATION ACT TO CERTAIN STATUTES.

(a) AMENDMENTS TO THE SECURITIES AND EXCHANGE ACT.—Section 24 of the Securities Exchange Act of 1934 (15 U.S.C. 78x), as amended by section 929I(a) of the Dodd-Frank Consumer Financial Protection and Wall Street Reform Act (Public Law 111–203), is amended by striking subsection (e) and inserting the following:

''(e) FREEDOM OF INFORMATION ACT.—For purposes of section 552(b)(8) of title 5, United States Code, (commonly referred to as the Freedom of Information Act)—

''(1) the Commission is an agency responsible for the regulation or supervision of financial institutions; and

''(2) any entity for which the Commission is responsible for regulating, supervising, or examining under this title is a financial institution.''.

(b) AMENDMENTS TO THE INVESTMENT COMPANY ACT.—Section 31 of the Investment Company Act of 1940 (15 U.S.C. 80a–30), as amended by section 929I(b) of the Dodd-Frank Consumer Financial Protection and Wall Street Reform Act (Public Law 111–203), is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(c) AMENDMENTS TO THE INVESTMENT ADVISERS ACT.—Section 210 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–10), as amended by section 929I(c) of the Dodd-Frank Consumer Financial Protection and Wall Street Reform Act (Public Law 111–203), is amended by striking subsection (d).

AUGUST 3, 2010.

SENATOR CHRISTOPHER DODD,
Chairman, Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, DC.

REPRESENTATIVE BARNEY FRANK,
Chairman, House Committee on Financial Services, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMEN DODD AND FRANK: We, the undersigned organizations concerned with government accountability and transparency, are writing to express our concerns about Section 929I of the recently passed Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act). If interpreted broadly, this provision has the potential to severely hinder the public's ability to access critical information related to the oversight activities of the Securities and Exchange Commission (SEC), thereby undermining the bill's overarching goals of more transparency and accountability.

As you know, Section 929I states that the SEC cannot be compelled to disclose records or other information obtained from its registered entities—including entities such as hedge funds, private equity funds, and venture capital funds that will now be regulated by the SEC—if this information is used for ''surveillance, risk assessments, or other regulatory and oversight activities'' outlined in the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940.

SEC Chairman Mary Schapiro wrote to you last week defending this provision. She argued that registered entities need to be able to provide the SEC with access to sensitive or proprietary information ''without concern that the information will later be made public.'' She further explained that, prior to the passage of the Dodd-Frank Act, ''regulated entities not infrequently refused to provide Commission examiners with sensitive information due to their fears that it ultimately would be disclosed publicly.'' She also claimed that investment advisers routinely refuse to turn over personal trading records of investment management personnel, ''instead requiring staff to review hard copies of the records on the adviser's premises,'' which ''materially impacts the staff's ability to detect insider trading activity.''

These arguments do not adequately describe the SEC's existing regulatory authority, and they fail to acknowledge that the Freedom of Information Act (FOIA) already provides sufficient exemptions to protect against the release of sensitive and proprietary information. Furthermore, the SEC has a troubling history of being overly aggressive in withholding records from the public. For these reasons, we strongly urge you to repeal Section 929I, or to at least curtail the SEC's broad authority to withhold critical information from the public.

First, we are not convinced by Chairman Schapiro's claim that ''existing FOIA exemptions were insufficient to allay concerns [about public disclosure] due in part to limitations in FOIA.'' For instance, Exemption 8 protects matters that are ''contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.'' Chairman Schapiro argues that this

exemption may not apply to all registrants, but it's worth noting that the courts have broadly construed the term ''financial institutions,'' holding that it is not limited to depository institutions and can also include investment advisers. In addition, Exemption 4 protects ''trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.'' The Department of Justice's (DOJ) FOIA guide states that this exemption ''encourages submitters to voluntarily furnish useful commercial or financial information to the government and it correspondingly provides the government with an assurance that such information will be reliable,'' calling into question Chairman Schapiro's claim that additional exemptions are needed in order for the SEC to collect information from its registered entities.

Second, the SEC's track record with FOIA raises additional concerns about giving the agency even more authority to withhold information from the public. Last year, an audit conducted by the SEC Office of Inspector General (OIG) uncovered a wide range of problems related to the SEC's FOIA operations. We were particularly troubled by the OIG's finding that the SEC Chief FOIA Officer was not operating in compliance with Executive Order 13392 or the OPEN Government Act; that few FOIA liaisons have written policies and procedures for processing FOIA requests, increasing the risk that the agency is unnecessarily withholding information from the public; and that there is an insufficient separation between the initial FOIA determination and the appeal process.

The OIG concluded that the SEC's FOIA release rate was ''significantly lower when compared to all other federal agencies.''

The OIG put forth a number of recommendations for correcting the glaring deficiencies in the SEC's FOIA operations, such as ensuring that accurate searches are made for responsive information, providing guidelines or written policies for all FOIA-related staff that address the concerns raised by the OIG, and ensuring that all FOIA-related staff has access to sufficient legal expertise to process requests in compliance with FOIA. But according to the OIG's most recent semiannual report to Congress, the SEC has not completed final action on any of these recommendations. Rather than giving the SEC any more leeway to improperly withhold information from the public, we urge you to hold Chairman Schapiro accountable for the excessive delays in implementing the OIG's recommendations.

Third, we notice that Chairman Schapiro is ''asking the Commission to issue and publish on our website guidance to our staff that ensures [Section 929I] is used only as it was intended.'' The solution for addressing the uncertainty surrounding this provision is not additional guidance. The solution is clarification in the law that public access is vital to accountability and that the existing FOIA exemptions can adequately protect confidential business information provided by regulated entities.

Fourth, Chairman Schapiro neglected to mention that the SEC already has the authority to compel registered entities to provide information and records. Under the Securities Exchange Act of 1934, the SEC has the authority to subpoena witnesses and require the production of any records from its registered entities. If these entities fail to comply, the SEC has the authority to suspend these entities, impose significant monetary penalties, and refer cases to DOJ for possible criminal proceedings. But instead of using these existing authorities, Chairman Schapiro seems to think that Congress needs to provide blanket FOIA exemptions in order to convince the SEC's registered entities to cooperate. We think such a blanket exemption fosters an environment that defers to the entities it regulates and is unadvisable.

Finally, it is unclear what Chairman Schapiro's plans are for implementing other blanket FOIA exemptions in the Dodd-Frank Act, such as Section 404, which exempts the SEC from FOIA with respect to any ''report, document, record, or information'' received from investment advisers to private funds.

In the aftermath of the recent financial crisis, the need for greater transparency in our financial system is all too apparent. The SEC's ongoing effort to withhold vital records from the public undermines the spirit of the transparency reforms in the Dodd-Frank Act, and flies in the face of President Obama's guidance instructing agencies to adopt a ''presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government.''

We call on you to repeal the unnecessary FOIA exemption in Section 929I, examine the SEC's current record on withholding information, and take whatever steps are necessary to ensure that the SEC isn't given any additional authority to keep its records under a veil of secrecy. We welcome an opportunity to discuss this issue with you further. To reach our groups, you or your staff may contact Angela Canterbury at the Project On Government Oversight.

Sincerely,

American Library Association; American Association of Law Libraries; Citizens for Ethics and Responsibility in Washington (CREW); Essential Information; Government Accountability Project (GAP); Liberty Coalition; OMB Watch; OpenTheGovernment.org; Project On Government Oversight (POGO); Public Citizen; Sunlight Foundation.

By Mr. CARDIN:

S. 3718. A bill to amend title 38, United States Code, to ensure that beneficiaries of Servicemembers' Group Life Insurance receive financial counseling and disclosure information regarding life insurance payments, and for other purposes; to the Committee on Veterans' Affairs.

Mr. CARDIN. Mr. President, I rise today to introduce the ''Securing America's Veterans Insurance Needs and Goals Act of 2010 or the SAVINGS Act of 2010. This is similar to a bill introduced in the House of Representatives by Congresswoman DEBORAH HALVORSON and House Committee on Veterans' Affairs Chair BOB FILNER.

This bill ensures that beneficiaries of the Servicemembers' Group Life Insurance, SGLI, program receive financial counseling and full disclosure information regarding life insurance payments. Active duty members of the Armed Forces will be given more information as they decide on disbursement options for their beneficiaries. The SAVINGS Act offers specific protections and alternatives to life insurance policy beneficiaries. This bill requires an explanation of how the retained-asset accounts differ from traditional checking accounts and leaves flexibility for the Secretary of the Department of Veterans Affairs to add more disclosure guidelines as he sees fit.

I present this bill to improve the process for our servicemembers and their families. My concern is that what has become a common industry practice, may not be an appropriate solution for every family. The SAVINGS Act addresses this challenge by requiring a greater level of disclosure and financial counseling to beneficiaries. This bill helps families make sound financial decisions during a most difficult time.

It will assist Marylanders and other Americans in difficult times. Last week National Public Radio profiled my constituent Cindy Lohman, of Great Mills, MD. Ms. Lohman lost her son Ryan when he was killed in a bombing in Afghanistan in August 2008. She had no idea that the package sent to her from the life insurance company would lead to more difficulty, during an already unbearable time.

While a mother grieved, Prudential the company that administers the SGLI policies on behalf of the Veterans Affairs Secretary began to process her survivor's benefits. Understandably too distraught to take immediate action, Ms. Lohman put away the package for 6 months. After looking over the many pages of printed forms and seeing what appeared to be a checkbook, Ms. Lohman assumed the money was in a checking account.

There were many details in that packet from the insurance company disclaimers and other specifics about the account. It turns out that this was not a standard, FDIC-insured account, but a retained-asset account managed by the insurance company.

As we send soldiers to fight overseas, our support for our servicemembers and their families must remain steadfast and strong. I am proud to serve in this Congress that has worked to honor our commitment to our nation's veterans and to the families of our fallen heroes. This is a good bill because it shows our commitment to do what is in the best interest of the families of the noble men and women who serve in uniform.

By Mr. WYDEN (for himself, Ms. SNOWE, and Mr. SCHUMER):

S. 3725. A bill to-prevent the importation of merchandise into the United States in a manner that evades antidumping and countervailing duty orders, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, I rise today to introduce the Enforcing Orders and Reducing Circumvention and Evasion Act—or the ENFORCE Act—of 2010.

We all know what a tax cheat is; well let me tell you about a trade cheat.

You see, under U.S. trade laws, when a certain import is found to be unfairly traded, that is, it benefits from government subsidies or is sold below market prices, the U.S. Department of Commerce imposes additional duties on these imports. These duties, we call them anti-dumping and countervailing duties, or AD/CVD, ensure that American producers are only asked to compete on a playing field that is level.

But we have these trade cheats out there. They cheat American taxpayers out of the revenue that is supposed to be collected on imports, and which is needed to reduce the budget deficit, and they cheat American producers out of business that may otherwise be theirs. In short, the trade cheats steal American jobs and America's treasure.

The U.S.' AD/CVD laws form its industries' protective backbone against injury from illegally dumped or subsidized imports. However, these trade remedy laws are only effective to the extent that they are enforced. We have an enforcement problem.

The trade cheats are increasingly—and brazenly—employing a variety of schemes to evade AD/CVD orders. Sometimes, they hustle their merchandise through foreign ports to claim that it originates from somewhere it doesn't. Other times, the trade cheats will provide fraudulent information to government authorities at American ports of entry, or engage in schemes to mislabel and misrepresent imports.

U.S. industry sources estimate that approximately $91 million in AD/CV duties that were supposed to be applied to just four steel products went uncollected as a result of evasion in 2009. This is an amount equal to 30 percent of all AD/CV duties CBP collected that year. With 300 current AD/CVD orders in place on countless products from over 40 countries, the potential for AD/CV duty evasion is vast, and hundreds of millions of AD/CV duties may be unaccounted for. Every penny counts and we have an obligation to the American businesses, and the workers they rely on, to do a better job.

The U.S. Customs and Border Protection, or CBP, is the nation's frontline defense against unfair trade and is responsible for enforcing U.S. trade remedy laws and collecting AD/CV duties. Yet if you listen to the concerns of domestic producers, as I and many of my colleagues do, timely and effective enforcement of AD/CVD orders remains problematic and AD/CV duty evasion continues, seemingly unabated.

I have enormous respect for the men and women of CBP who manage U.S. borders, and believe its new commissioner is committed to improving the trade enforcement and trade facilitation functions of CBP. When U.S. producers spend the time and resources to submit to CBP evidence of AD/CVD evasion, CBP should be held accountable to acting on that evidence and communicating its actions to U.S. industry in a timely manner. It is not held accountable now to the degree it should be. I grow concerned that U.S. producers are spending too much time and resources trying to indentify unfair trade and help government agencies enforce the trade laws. American industry needs to be free to do what it does best, which is to innovate and produce goods that are competitive in free and fair markets.

The bill I am introducing today, with my friend and colleague, Senator SNOWE from Maine, will go a long way toward empowering the Federal Government to do a better job to combat the trade cheats and enforce U.S. trade laws. I'd like to highlight just a few of the main provisions.

First, the ENFORCE Act will expand the U.S. Department of Commerce's authority to investigate circumvention to include misrepresented merchandise that might evade AD/CVD orders. As the agency tasked with investigating allegations of dumping and harmful government subsidization, Commerce has the industry and product expertise to investigate this type of AD/CVD circumvention. This bill will not diminish CBP's role; rather, it will bolster greater cooperation and information sharing between the two agencies to combat the unfair trade practices that hurt U.S. industry and its ability to create jobs.

Second, the bill will create a process by which U.S. industry can submit to CBP a formal petition containing allegations of AD/CVD evasion, and CBP must reach a conclusive determination within a set time period. If it cannot, then the petition is transferred to the Department of Commerce for separate circumvention proceedings. The ENFORCE Act will require a greater level of responsiveness and accountability to U.S. producers while providing for increased collaboration between these two government agencies to improve enforcement of U.S. trade laws.

Third, the bill will enhance information among the federal agencies once an importer is suspected of evading an AD/CVD order. Many of the same schemes importers employ to evade an AD/CVD order, like mislabeling, often shirk other regimes put in place to ensure that products are safe for consumption by American families. Enhanced information sharing will provide greater protection against imports that may cause harm to U.S. consumers.

This bill presents a commonsense strategy to combat trade cheating and the evasion of antidumping and countervailing duty collection. Enforcing U.S. trade laws and combating unfair trade practices must be a central pillar of an economic and trade policy that is designed to promote economic growth and job expansion. I look forward to working with my colleagues in the Senate and with my friends in the House of Representatives to build support for this initiative and to take action on behalf of American producers.

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. 3725

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 ''Enforcing Orders and Reducing Circumvention and Evasion Act of 2010''.

SEC. 2. PROCEDURES FOR PREVENTION OF CIRCUMVENTION AND EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) IN GENERAL.—Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended by inserting after section 781 the following:

''SEC. 781A. PROCEDURES FOR PREVENTION OF CIRCUMVENTION AND EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

''(a) DEFINITIONS.—In this section:

''(1) COMMISSIONER.—The term 'Commissioner' means the Commissioner responsible for U.S. Customs and Border Protection.

''(2) COVERED MERCHANDISE.—

''(A) IN GENERAL.—The term 'covered merchandise' means merchandise that—

''(i) is subject to—

''(I) an antidumping duty order issued under section 736;

''(II) a finding issued under the Antidumping Act, 1921; or

''(III) a countervailing duty order issued under section 706; and

''(ii) is represented in any manner, including by mislabeling, misidentification, or misreporting of the merchandise, as merchandise that—

''(I) is not subject to such an order or finding; or

''(II) is subject to a lower rate of duty than the rate of duty applicable to the merchandise under such an order or finding.

''(B) APPLICABILITY TO DETERMINATIONS OF THE ADMINISTERING AUTHORITY.—For purposes of investigations and determinations of the administering authority under subsection (b), the administering authority shall determine if merchandise is covered merchandise without regard to the intent of the importer.

''(b) PREVENTION BY ADMINISTERING AUTHORITY.—

''(1) PROCEDURES FOR INITIATING INVESTIGATIONS.—

''(A) INITIATION BY ADMINISTERING AUTHORITY.—An investigation under this subsection shall be initiated with respect to merchandise imported into the United States whenever the administering authority determines, from information available to the administering authority, that an investigation is warranted with respect to whether the merchandise is covered merchandise.

''(B) INITIATION BY PETITION OR REFERRAL.—

''(i) IN GENERAL.—The administering authority shall determine whether to initiate an investigation under this subparagraph not later than 30 days after the date on which the administering authority receives a petition described in clause (ii) or a referral described in clause (iii).

''(ii) PETITION DESCRIBED.—A petition described in this clause is a petition that—

''(I) is filed with the administering authority by an interested party specified in subparagraph (A), (C), (D), (E), (F), or (G) of section 771(9);

''(II) alleges that merchandise imported into the United States is covered merchandise; and

''(III) is accompanied by information reasonably available to the petitioner supporting those allegations.

''(iii) REFERRAL DESCRIBED.—A referral described in this clause is a referral made by the Commissioner pursuant to subsection (c)(2)(B).

''(2) TIME LIMITS FOR DETERMINATIONS.—

''(A) PRELIMINARY DETERMINATION.—

''(i) IN GENERAL.—Not later than 30 days after the administering authority initiates an investigation under paragraph (1) with respect to merchandise, the administering authority shall issue a preliminary determination, based on information available to the administering authority at the time of the determination, with respect to whether there

is a reasonable basis to believe or suspect that the merchandise is covered merchandise.

''(ii) EXPEDITED PROCEDURES.—If the administering authority determines that expedited action is warranted with respect to an investigation initiated under paragraph (1), the administering authority may publish the notice of initiation of the investigation and the notice of the preliminary determination in the Federal Register at the same time.

''(B) FINAL DETERMINATION BY THE ADMINISTERING AUTHORITY.—The administering authority shall, to the maximum extent practicable, issue a final determination with respect to whether merchandise is covered merchandise not later than 180 days after the date on which the administering authority initiates an investigation under paragraph (1) with respect to the merchandise.

''(3) ACCESS TO INFORMATION.—

''(A) ENTRY DOCUMENTS AND RECORDS.—Upon receiving a request from the administering authority, and not later than the date on which the administering authority initiates an investigation under paragraph (1) with respect to merchandise, the Commissioner shall transmit to the administering authority copies of the documentation and information required by section 484(a)(1) with respect to the entry of the merchandise.

''(B) ACCESS OF INTERESTED PARTIES.—Not later than 10 business days after the date on which the administering authority initiates an investigation under paragraph (1) with respect to merchandise, the administering authority shall provide to the authorized representative of each interested party that filed a petition under paragraph (1) or otherwise participates in a proceeding, pursuant to a protective order, the copies of the entry documentation and information received by the administering authority under subparagraph (A).

''(4) EFFECT OF AFFIRMATIVE PRELIMINARY DETERMINATION.—If the administering authority makes a preliminary determination under paragraph (2)(A) that merchandise is covered merchandise, the administering authority shall instruct U.S. Customs and Border Protection—

''(A) to suspend liquidation of each entry of the merchandise that—

''(i) enters on or after the date of the preliminary determination; or

''(ii) enters before that date, if the liquidation of the entry is not final on that date; and

''(B) to require the posting of a cash deposit for each entry of the merchandise in an amount determined pursuant to the order or finding described in subsection (a)(2)(A)(i), or administrative review conducted under section 751, that applies to the merchandise.

''(5) EFFECT OF AFFIRMATIVE FINAL DETERMINATION.—

''(A) IN GENERAL.—If the administering authority makes a final determination under paragraph (2)(B) that merchandise is covered merchandise, the administering authority shall instruct U.S. Customs and Border Protection—

''(i) to assess duties on the merchandise in an amount determined pursuant to the order or finding described in subsection (a)(2)(A)(i), or administrative review conducted under section 751, that applies to the merchandise;

''(ii) notwithstanding section 501, to reliquidate, in accordance with such order, finding, or administrative review, each entry of the merchandise that was liquidated—

''(I) on or after the date that is one year before the date on which the investigation was initiated under paragraph (1) with respect to the merchandise; and

''(II) before the date of the final determination; and

''(iii) to review and reassess the amount of bond or other security the importer is required to post for such merchandise entered on or after the date of the final determination to ensure the protection of revenue and compliance with the law.

''(B) ADDITIONAL AUTHORITY.—If the administering authority makes a final determination under paragraph (2)(B) that merchandise is covered merchandise, the administering authority may instruct U.S. Customs and Border Protection to require the importer of the merchandise to post a cash deposit or bond on such merchandise entered on or after the date of the final determination in an amount the administering authority determines in the final determination to be owed with respect to the merchandise.

''(6) EFFECT OF NEGATIVE FINAL DETERMINATION.—If the administering authority makes a final determination under paragraph (2)(B) that merchandise is not covered merchandise, the administering authority shall terminate the suspension of liquidation and refund any cash deposit imposed pursuant to paragraph (4) with respect to the merchandise.

''(7) SPECIAL RULE FOR CASES IN WHICH THE PRODUCER OR EXPORTER IS UNKNOWN.—If the administering authority is unable to determine the actual producer or exporter of the merchandise with respect to which the administering authority initiated an investigation under paragraph (1), the administering authority shall, in requiring the posting of a cash deposit under paragraph (4) or assessing duties pursuant to paragraph (5)(A), impose the cash deposit or duties (as the case may be) in the highest amount applicable to any producer or exporter of the merchandise pursuant to any order or finding described in subsection (a)(2)(A)(i), or any administrative review conducted under section 751.

''(8) PUBLICATION OF DETERMINATIONS.—The administering authority shall publish each preliminary determination made under paragraph (2)(A) and each final determination made under paragraph (2)(B) in the Federal Register.

''(9) REFERRALS TO OTHER AGENCIES.—

''(A) AFTER PRELIMINARY DETERMINATION.—Notwithstanding section 777 and subject to subparagraph (C), when the administering authority makes an affirmative preliminary determination under paragraph (2)(A), the administering authority shall—

''(i) transmit the administrative record to the Commissioner for such additional action as the Commissioner determines appropriate, including proceedings under section 592; and

''(ii) at the request of the head of another agency, transmit the administrative record to the head of that agency.

''(B) AFTER FINAL DETERMINATION.—Notwithstanding section 777 and subject to subparagraph (C), when the administering authority makes an affirmative final determination under paragraph (2)(B), the administering authority shall—

''(i) transmit the complete administrative record to the Commissioner; and

''(ii) at the request of the head of another agency, transmit the complete administrative record to the head of that agency.

''(C) PROTECTIVE ORDERS.—Before transmitting the administrative record with respect to a proceeding to the Commissioner or the head of another agency under subparagraph (A) or (B), the administering authority shall verify that U.S. Customs and Border Protection or such other agency (as the case may be) has in effect with respect to the administrative record a protective order that provides the same or a similar level of protection for the information in the administrative record as the protective order in effect with respect to such information under this subsection.

''(c) PREVENTION BY U.S. CUSTOMS AND BORDER PROTECTION.—

''(1) INVESTIGATIONS.—Not later than 180 days after the date of the enactment of the Enforcing Orders and Reducing Circumvention and Evasion Act of 2010, the Commissioner, in consultation with the Under Secretary for International Trade of the Department of Commerce and subject to the requirements of this subsection, shall establish procedures—

''(A) to permit an interested party specified in subparagraph (A), (C), (D), (E), (F), or (G) of section 771(9) of the Tariff Act of 1930 (19 U.S.C. 1677(9)) to submit to U.S. Customs and Border Protection a petition alleging that an importer is importing covered merchandise into the United States;

''(B) to investigate the allegations in a petition submitted under subparagraph (A) and make determinations or referrals under paragraph (2) with respect to those allegations; and

''(C) to notify the interested party that submitted the petition of the determination or referral (as the case may be) and the outcome of the investigation.

''(2) DETERMINATIONS; REFERRALS.—Not later than 60 days after a petition is submitted under paragraph (1)(B), the Commissioner shall—

''(A) make a determination with respect to whether an importer is importing covered merchandise into the United States based on whether the Commissioner has a reasonable basis to believe or suspect that the importer is importing such merchandise; or

''(B) if the Commissioner is unable to make such a determination—

''(i) refer the matter to the administering authority for additional proceedings under subsection (b); and

''(ii) transmit to the administering authority—

''(I) the petition submitted under paragraph (1)(A);

''(II) copies of the entry documents and information required by section 484(a)(1) relating to the merchandise; and

''(III) to the extent otherwise permitted by law, any additional records or information that the Commissioner considers appropriate.

''(3) SUSPENSION OF LIQUIDATION AND DEPOSIT REQUIREMENT.—

''(A) IN GENERAL.—If the Commissioner makes a determination under paragraph (2) that an importer is importing covered merchandise into the United States, the Commissioner shall—

''(i) suspend liquidation of each entry of the merchandise that—

''(I) enters on or after the date of the determination; or

''(II) enters before that date, if the liquidation of the entry is not final on that date; and

''(ii) with respect to each entry of the merchandise referred to in clause (i), require the posting of a cash deposit, assess any duties, and impose any other requirements that are applicable to the merchandise under an order or finding described in subsection (a)(2)(A)(i) or pursuant to an administrative review conducted under section 751.

''(B) SPECIAL RULE FOR CASES IN WHICH THE PRODUCER OR EXPORTER IS UNKNOWN.—If the Commissioner is unable to determine the actual producer or exporter of merchandise with respect to which the Commissioner initiated an investigation under paragraph (1)(B), the Commissioner shall, in requiring the posting of a cash deposit or assessing duties under subparagraph (A)(ii), impose the cash deposit or duties (as the case may be) in

the highest amount applicable to any producer or exporter of the merchandise pursuant to an order or finding described in subsection (a)(2)(A)(i) or an administrative review conducted under section 751.

''(d) COOPERATION BETWEEN U.S. CUSTOMS AND BORDER PROTECTION AND THE DEPARTMENT OF COMMERCE.—

''(1) NOTIFICATION OF INVESTIGATIONS.—

''(A) INVESTIGATIONS BY ADMINISTERING AUTHORITY.—Upon receiving a petition and upon initiating an investigation under subsection (b), the administering authority shall notify the Commissioner.

''(B) INVESTIGATIONS BY U.S. CUSTOMS AND BORDER PROTECTION.—Upon initiating an investigation under subsection (c), the Commissioner shall notify the administering authority.

''(2) PROCEDURES FOR COOPERATION.—Not later than 180 days after the date of the enactment of the Enforcing Orders and Reducing Circumvention and Evasion Act of 2010, the Commissioner and the administering authority shall establish procedures to ensure maximum cooperation and communication between U.S. Customs and Border Protection and the administering authority in order to quickly, efficiently, and accurately investigate allegations of circumvention or evasion of antidumping and countervailing duty orders.

''(e) ANNUAL REPORT ON PREVENTING CIRCUMVENTION AND EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.—

''(1) IN GENERAL.—Not later than February 28 of each year beginning in 2012, the Under Secretary for International Trade of the Department of Commerce and the Commissioner shall jointly submit to the Committee on Finance and the Committee on Appropriations of the Senate and the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives a report on the efforts being taken under subsections (b) and (c) to prevent circumvention and evasion of antidumping and countervailing duty orders.

''(2) CONTENTS.—Each report required by paragraph (1) shall include, for the year preceding the submission of the report—

''(A)(i) the number of investigations initiated pursuant to subsection (b); and

''(ii) a description of such investigations, including—

''(I) the results of such investigations; and

''(II) the amount of antidumping and countervailing duties collected as a result of such investigations;

''(B)(i) the number of petitions submitted pursuant to subsection (c)(1); and

''(ii) a description of the investigations initiated by U.S. Customs and Border Protection pursuant to subsection (c) and any enforcement actions related to the investigations, including—

''(I) the results of the investigations; and

''(II) the amount of antidumping and countervailing duties collected as a result of the investigations;

''(C)(i) the number of inquiries initiated pursuant to section 781; and

''(ii) a description of such inquiries, including—

''(I) the results of such inquiries; and

''(II) the amount of antidumping and countervailing duties collected as a result of such inquiries; and

''(D) a description of investigations initiated by other Federal agencies as a result of referrals under subsection (b)(10).''.

(b) TECHNICAL AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 781 the following:

''Sec. 781A. Procedures for prevention of circumvention and evasion of antidumping and countervailing duty orders.''.

(c) JUDICIAL REVIEW.—Section 516A(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(2)) is amended—

(1) in subparagraph (A)(i)(I), by striking ''or (viii)'' and inserting ''(viii), or (ix)''; and

(2) in subparagraph (B), by inserting at the end the following:

''(ix) A determination by the administering authority or the Commissioner responsible for U.S. Customs and Border Protection under section 781A.''.

(d) TIME LIMITS FOR DETERMINATIONS OF CIRCUMVENTION.—Section 781(f) of the Tariff Act of 1930 (19 U.S.C. 1677(f)) is amended by striking '', to the maximum extent practicable,''.

(e) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act—

(1) the Secretary of Commerce shall prescribe such regulations as may be necessary to carry out subsection (b) of section 781A of the Tariff Act of 1930 (as added by subsection (a) of this section); and

(2) the Commissioner responsible for U.S. Customs and Border Protection shall prescribe such regulations as may be necessary to carry out subsection (c) of such section 781A.

(f) EFFECTIVE DATE.—The amendments made by this section shall—

(1) take effect on the date that is 180 days after the date of the enactment of this Act; and

(2) apply with respect to merchandise entered on or after such date of enactment.

SEC. 3. MODIFICATIONS TO PROTECTIVE ORDERS.

Section 777(c)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1677f(c)(1)(B)) is amended to read as follows:

''(B) PROTECTIVE ORDER.—

''(i) IN GENERAL.—Except as specifically provided in this subparagraph, the protective order under which information is made available shall contain such requirements as the administering authority or the Commission may determine by regulation to be appropriate. The administering authority and the Commission shall provide by regulation for such sanctions as the administering authority and the Commission determine to be appropriate, including disbarment from practice before the agency.

''(ii) CONCURRENT PROCEEDINGS.—In the case of concurrent proceedings covering the same subject merchandise conducted pursuant to subtitles A and B of this title, a single protective order shall be issued for both proceedings.

''(iii) APPLICABILITY TO PROCEEDINGS BEFORE U.S. CUSTOMS AND BORDER PROTECTION.—A protective order issued pursuant to this paragraph shall authorize the use of business proprietary information made available pursuant to a protective order in proceedings before U.S. Customs and Border Protection.''.

SEC. 4. GOVERNMENT ACCOUNTABILITY OFFICE REPORT.

Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Finance and the Committee on Appropriations of the Senate and the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives a report assessing the effectiveness of—

(1) the provisions of, and amendments made by, this Act; and

(2) the actions taken and procedures developed by the Secretary of Commerce and the Commissioner responsible for U.S. Customs and Border Protection pursuant to such provisions and amendments to prevent circumvention and evasion of antidumping and countervailing duty orders under title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.).

SEC. 5. ALLOCATION OF U.S. CUSTOMS AND BORDER PROTECTION PERSONNEL.

The Commissioner responsible for U.S. Customs and Border Protection shall, to the maximum extent practicable, ensure that U.S. Customs and Border Protection—

(1) employs sufficient personnel who have expertise and responsibility for preventing the importation of merchandise in a manner that evades antidumping and countervailing duty orders issued under title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.); and

(2) assigns sufficient personnel with primary responsibility for preventing the importation of merchandise in a manner that evades antidumping and countervailing duty orders to the ports of entry in the United States at which the Commissioner determines the largest quantity of merchandise imported in such a manner entered the United States during the most recent 2-year period for which data are available.

SEC. 6. APPLICATION TO 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, the amendments made by this Act shall apply with respect to goods from Canada and Mexico.

By Mr. SCHUMER (for himself, Mr. HATCH, Mr. GRAHAM, Mr. WHITEHOUSE, Mrs. GILLIBRAND, Ms. SNOWE, Mrs. BOXER, Mrs. FEINSTEIN, Mr. CARDIN, Mr. KOHL, and Mrs. HUTCHISON):

S. 3728. A bill to amend title 17, United States Code, to extend protection to fashion design, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I wish to express my support for the Innovative Design Protection and Piracy Prevention Act. For years I have been supportive of moving this legislation forward. It not only underscores the importance of the fashion design industry to our economy but will ensure that new and innovative fashion designs are afforded proper copyright protection.

Throughout my service in the Senate, I have worked on a whole host of intellectual property-related initiatives. There is no doubt that legislating in this area is difficult. It is necessary, however, to maintain our position at the forefront of the world's economy and to continue our country's leadership in global innovation.

Make no mistake about it: piracy and counterfeiting are the new face of economic crime around the world, far exceeding traditional property crimes. These crimes are the very antitheses of creativity—crippling growth and stifling innovation in their wake.

Last Congress I worked closely with my Senate Judiciary Committee colleagues and others in passing the PRO–IP Act, which was signed into law by President George W. Bush on October 13, 2008. There is no doubt the PRO–IP bill will ensure that resources are available to enforce intellectual property laws and coordinate the government's intellectual property policies.

Yet there are no laws prohibiting design piracy.

Currently, original designs are copied and the apparel is manufactured in countries with cheap labor, typically in mainland China, Hong Kong, Pakistan, and Singapore. The garments are then shipped into the U.S. to directly compete with the garments of the original designer, sometimes before the originals have even hit the market. As a result, the U.S. apparel industry continues to lose billions of dollars to counterfeiting each year.

We must ensure that all property rights, including fashion designs, are protected both here and abroad. Counterfeiting and piracy sap our country's economic strength. Plain and simple, when a company loses revenues to piracy or counterfeited goods, it does not have those resources to reinvest into making more of its goods. And that means lost jobs. This domino effect ensnares all within its reach.

These crimes not only affect the individual company, but they also adversely affect the companies that would have contributed to or benefitted from the unmade goods. Suppliers of raw materials and components as well as shippers, distributors, and retailers, all take the hit.

In my home State of Utah, I am mindful of the designers who make a meaningful contribution to the fashion industry. Utah designers like Nappi, Modurrn, and CherellaUSA are committed to quality and original clothing lines. These designers, and many more across the Nation, must know that after spending their time and money in developing new and unique fashion designs, their works are protected from infringers. They should be able to secure and enforce adequate copyright protections for their hard work.

The Innovative Design Protection and Piracy Prevention Act represents a true compromise. The proposed legislation is the product of an intensive year of negotiations with interested stakeholders. Among other things, the compromise language provides protection to truly unique fashion designs. In order to be considered an infringing design, a plaintiff must demonstrate that a design copy is ''substantially identical.''

I am pleased with the progress that has already been made on the bill and look forward to working with my colleagues on further refinements as it moves through the legislative process.

By Mrs. SHAHEEN (for herself, Mr. REID, Mr. DORGAN, Mr. KAUFMAN, Mr. BEGICH, Mr. BINGAMAN, and Mr. KERRY):

S. 3732. A bill to establish within the Department of Education the Innovation Inspiration school grant program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. SHAHEEN. Mr. President, today I introduce a bill, the Innovation Inspiration school grant program. This legislation will give high school students in New Hampshire and across the country access to non-traditional science, technology, engineering, and mathematics programs as well as the opportunity to be mentored by professionals in those fields.

I am proud to be joined in introducing this bill today with Senators REID, DORGAN, KAUFMAN, BEGICH, BINGAMAN and KERRY and thank them for their support.

We hear so often about the importance of STEM fields and our future economy. These fields—commonly defined as the science, technology, engineering, and mathematics—are central to U.S. economic competitiveness and growth. In fact, projections by the U.S. Labor Department show that STEM-related fields are expected to be the fastest growing occupations of the next decade.

What is worrisome, though, is that too few students in the United States are pursuing education in these STEM fields to keep up with the increased demand in the workforce. For those students that do embark in STEM education, too often they are being outperformed by international competitors.

Simply put, I believe that in today's global economy American students must have access to better STEM training, have the opportunity to be mentored by professionals in the field and be engaged in the study of these critical fields at deeper, more meaningful levels.

This legislation, the Innovation Inspiration School Grant Program, does that. It will bolster our student's access to quality non-traditional STEM programs. It will grow the STEM pipeline and broaden access to careers in science, technology, engineering and math.

We all recognize that community partnerships and especially mentors for our young people are essential to their success. The Innovation Inspiration School Grant Program will provide states and schools critical resources to engage community members and professional mentors who are working in the STEM fields. I believe that by connecting students with well-trained teachers and community mentors, we can foster innovation at the high school level and inspire young people to graduate high school, enter the workforce, or go onto college to major in science and engineering and pursue careers in these fields.

Students in New Hampshire have been participating in non-traditional STEM opportunities, such as those provided by FIRST Robotics, for over 20 years. And for these students, the experience has been life-changing.

Take, for example, Aletha Evangelou, from Nashua, NH. As a result of her experience in the Nashua High School FIRST Robotics team, a love of engineering grew. She went on to major in mechanical engineering at the University of New Hampshire and is now employed at a defense and aerospace company in our state. She says ''I have been a full time mechanical engineer at BAE Systems for two and a half years now, and I can honestly say that I would not be here if I hadn't joined the FIRST Robotics program. It completely changed my life.''

Aletha is just one example of many students who have benefitted from the type of programs that are supported by this legislation. Every student in every school across the country should have the opportunity to have these sorts of experiences. This legislation does that.

I urge my colleagues to join me to ensure that high school graduates have the skills and knowledge in the STEM fields necessary to succeed in postsecondary education and develop the workforce of the 21st century.

By Mrs. LINCOLN (for herself and Mr. CHAMBLISS:

S. 3735. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to improve the use of certain registered pesticides; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. LINCOLN. Mr. President, our farmers, foresters, and ranchers provide our Nation and the world with a safe, secure, and affordable source of food and fiber. I have vigorously supported rural America through my work as Chairman of the Senate Committee on Agriculture, Nutrition, and Forestry. We must do all we can to support these communities, which are the backbone of our great Nation.

Unfortunately, because of aggressive litigation and federal courts misinterpreting Congressional intent, our farmers, foresters, and ranchers are facing new restrictions on their operations. Too often, this results in obligations that are time-consuming, expensive, and plainly unnecessary.

A prime example of this is the Environmental Protection Agency's, EPA, effort to regulate the use of crop protection products under the Clean Water Act. EPA, at the direction of the Federal courts, is requiring Clean Water Act permits for pesticide applications even if an application does not occur directly into the water. Congress never intended for agricultural chemicals to be regulated under the Clean Water Act.

Farm and forest chemical applications are already subject to another federal statute that protects human health and the environment, the Federal Insecticide, Fungicide and Rodenticide Act, FIFRA. Farm and forest protection products regulated under FIFRA are subject to rigorous scientific testing before they can be sold and used. In addition, farmers and foresters must adhere to use instructions contained on pesticide labels.

Subjecting farmers to an additional layer of bureaucracy under the Clean Water Act is duplicative and unnecessary since human health and the environment is already protected by FIFRA.

Clean Water Act permits for farm and forest chemical use will also be expensive for pesticide applicators and for state regulatory agencies. EPA has said that these new requirements will nearly double the number of permittees under the National Pollution Discharge Elimination System, NPDES. This will result in tens of thousands of dollars in new costs and burdens for producers and state regulatory agencies who are already suffering from lack of resources.

Today I am introducing legislation to clarify Congress' intent. Farmers, foresters, and ranchers already comply with FIFRA and further unnecessary regulation should not be required. I am pleased to be joined by Agriculture Committee Ranking Member SAXBY CHAMBLISS. The bill is very simple: as long as a farmer is complying with FIFRA, then no Clean Water Act permit will be required. During the more than 35 years since the enactment of the Clean Water Act, the EPA has never required a NPDES permit for the application of FIFRA-registered crop protection products. My bill would extend this common sense approach and avoid duplicative, unnecessary burdens on our farmers, foresters, and ranchers.

I urge my Senate colleagues to join us in taking action on this bill.

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. 3735

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

SECTION 1. USE OF REGISTERED PESTICIDES.

Section 3(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(f)) is amended by adding at the end the following:

''(5) USE OF REGISTERED PESTICIDES.—Notwithstanding any other law, no permit shall be required for—

''(A) the use of a pesticide that is registered or otherwise authorized for use under this Act, if that use is in accordance with this Act; or

''(B)(i) the use of a biological control organism (as defined in section 403 of the Plant Protection Act (7 U.S.C. 7702)) for the prevention, control, or eradication of a plant pest or noxious weed, if that use is in accordance with that Act (7 U.S.C. 7701 et seq.); or

''(ii) the conduct of any other plant pest, noxious weed, or pest control activity under that Act, if that activity is conducted in accordance with that Act.''.

By. Mr. INHOFE:

S. 3736. A bill to amend the Clean Air Act to allow States to opt out of the corn ethanol portions of the renewable fuel standard; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, with the passage of the 2007 energy bill (EISA), Congress doubled the corn-based ethanol mandate despite mounting questions surrounding ethanol's compatibility with existing engines, its transportation and infrastructure needs, its economic sustainability, and numerous other issues. Then, as now, I argued it was just too early to significantly increase the mandate and that the fuels industry and engine manufacturers needed more time to adapt and catch up with the many developing challenges facing corn-based ethanol. From everything we have witnessed over the past 2½ years, I was right. These mandates allow no room for error in a fuels industry already constrained by tight credit, dwindling capacity, environmental regulation, and volatile market conditions.

The corn ethanol mandate has also led to consumer backlash in parts of the country. In my home state of Oklahoma, one convenience store chain experienced a 30 percent drop in fuel sales once they began selling fuel blended at E–10 levels. The consumers didn't want it. In 2008, the New York Times reported this growing consumer discontent from Oklahoma City:

> Why Do You Put Alcohol in Your Tank? demands a large sign outside one gas station here, which reassures drivers that it sells only ''100% Gas.''
>
> ''No Corn in Our Gas,'' advertises another station nearby. Along the highways of this sprawling prairie city, and in other pockets of the country, a mutiny is growing against energy policies that heavily support and subsidize the blending of ethyl alcohol, or ethanol, into gasoline.
>
> Many consumers complain that ethanol, which constitutes as much as 10 percent of the fuel they buy in most states, hurts gas mileage and chokes the engines of their boats and motorcycles.

Despite this consumer backlash, corn advocates are today pushing Washington to require higher consumptions of ethanol. The most pressing issue facing corn ethanol is the so-called ''blend wall'' of 10 percent. EISA mandated 15 billion gallons of corn-based ethanol by 2015. But here is the problem: Federal regulations require that a gallon of gasoline should contain no more than 10 percent ethanol. So there will soon be more corn ethanol production than the amount of ethanol allowed in gasoline.

So what is the solution? Corn ethanol advocates have the wrong approach. Rather than rethink EISA's corn mandates, they are lobbying for higher, mid-level ethanol blends in gasoline—higher than E10. Sounds like a simple solution, except its consequences would be dire, with potential damage to agriculture, the environment, and engine equipment manufacturers.

Many on-road and non-road engines, vehicles, and equipment are not specifically designed to run on ethanol blends of E10, let alone blends as high as E15. The available evidence indicates that lawnmowers, chainsaws, snowmobiles, recreational boats, motorcycles, and non-flex-fuel cars and trucks produce higher evaporative and engine exhaust emissions using mid-level ethanol blends. Also, mid-level ethanol blends are more corrosive on certain metals and plastics used in many fuel systems, and cause many gasoline-powered engines to run hotter and at higher RPM levels. In turn, this results in adverse impacts on starting, durability, operation, performance, and operator safety, due to the degradation of critical components and safety devices.

The American Lung Association has noted that degradation of catalyst efficiency, caused by increasing the ethanol content in gasoline, ''can have a major impact on emissions.'' These higher blends of ethanol can also cause NO_X emissions to increase up to 25 percent. In short, we need to be careful that the rapid ramp-up in ethanol use doesn't result in the degradation of our country's air quality.

And many consumers complain about decreased fuel efficiency. Corn Ethanol is 67 percent of the BTU content of gasoline. According to EPA, vehicles ''operating on E85 usually experience a 20–30 percent drop in miles per gallon due to ethanol's lower energy content.'' These results were seconded by a Consumer Reports study that found E85 resulted in a 27 percent drop in fuel efficiency.

In my home state of Oklahoma, ethanol's blendwall has eliminated consumer choice. Where consumers could once choose to purchase clear gas, the blendwall is now forcing motorists to buy E10. The fuel blenders and gas station owners have no option but to sell ethanol blended gasoline despite strong consumer demand for clear gas.

Today I am introducing a simple three-page bill that responds to the increasing call for more consumer choice in the ability to purchase ethanol-free gasoline. Simply put, my bill allows a State to opt out of the corn ethanol portions of the renewable fuel standard. To do so, a State must pass a bill, signed by the governor, stating its election to exercise this option. The opt-out would be recognized by the administrator of the EPA, who would then reduce the amount of the national corn ethanol mandate by the percentage amount of the State which chooses to opt out. The bill also provides for the generation of credits to hold harmless the refiners who would produce clear gasoline sold in an opt-out State.

This legislation would allow a State to opt out of only the corn ethanol mandate. It would not affect other portions of the renewable fuel standard such as the cellulosic or advanced biofuels volumetric requirements.

I believe Congress blundered in pushing too much corn ethanol too fast. This bill will merely allow for fuel producers to respond to market demands when and where consumers prefer clear gas. Right now they can't do that.

By Mr. KERRY:

S. 3738. A bill to amend the Internal Revenue Code of 1986 to provide incentives for clean energy manufacturing to reduce emissions, to produce renewable energy, to promote conservation, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the Clean Energy Technology Leadership Act. This legislation would provide tax incentives for clean energy manufacturing, renewable energy, and conservation. This is a critical package of incentives to drive the development and deployment of clean energy technology in the United States. It also will expand our manufacturing base to ensure that these advanced energy technologies are made here in America.

This bill is not intended to serve as a substitute for comprehensive energy and climate legislation. However, it does provide a near-term opportunity to support the development and deployment of clean energy technologies.

Congress must continue working on legislation that will put us on a course to substantially reduce greenhouse gas emissions, but the events of the last several weeks have made it clear that there is no bipartisan support for a strong energy and climate bill. In the interim, we should act on areas where there is potential agreement. The Clean Energy Technology Leadership Act is broad energy tax legislation that focuses on tax incentives to encourage renewable energy and conservation. This legislation would extend and improve existing provisions in the tax code and provides some targeted new incentives.

The legislation would promote clean energy manufacturing by providing additional funding for the advanced energy manufacturing credit and uncapping the credit for solar energy property, fuel cell power generation, and advanced energy storage systems, including batteries for advanced vehicles. In addition, the legislation would extend the credit for domestic manufacturers of energy appliances.

To encourage the production of renewable energy, the Clean Energy Technology Leadership Act would extend for 2 years and codify the grant in lieu of tax credit program created by the American Recovery and Reinvestment Act of 2009. It modifies the program to clarify that real estate investment trusts and public power would be eligible for the program. The legislation provides an additional $3.5 billion for clean renewable energy bonds, with 60 percent allocated to public power and the remaining 40 percent to cooperative electric rural companies. The Clean Energy Technology Leadership Act extends the research and development tax credit retroactively through 2012. For 2011 and 2012, it would increase the R&D credit by ten percent for research expenditures related to the fields of fuel cells and battery technology, renewable energy, energy conservation technology, efficient transmission and distribution of electricity, and carbon capture and sequestration.

To encourage conservation, the Clean Energy Technology Leadership Act would extend and modify tax incentives for new energy efficient homes, nonbusiness energy property improvements, and energy efficient commercial buildings. The bill also would provide incentives for clean transportation by providing incentives for natural gas use in heavy vehicles.

These provisions will encourage investments in developing and deploying renewable energy and conservation solutions, which will result in lower greenhouse gas emissions. The Clean Energy Technology Leadership Act is not a comprehensive energy and climate solution, but I believe it is an important starting point. I am hopeful that we can secure bipartisan support for these and other important tax provisions and pass them this year.

By Mr. CASEY (for himself, Mrs. MURRAY, Mr. BURRIS, Ms. CANTWELL, Ms. KLOBUCHAR, Mr. BROWN, of Ohio, Mr. FEINGOLD, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. SANDERS, and Mr. WYDEN):

S. 3739. A bill to amend the Safe and Drug-Free Schools and Communities Act to include bullying and harassment prevention programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. CASEY. 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. 3739

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 ''Safe Schools Improvement Act of 2010''.

SEC. 2. BULLYING AND HARASSMENT PREVENTION POLICIES, PROGRAMS, AND STATISTICS.

(a) STATE REPORTING REQUIREMENTS.—Section 4112(c)(3)(B)(iv) of the Safe and Drug-Free Schools and Communities Act (20 U.S.C. 7112(c)(3)(B)(iv)) is amended by inserting '', including bullying and harassment,'' after ''violence''.

(b) STATE APPLICATION.—Section 4113(a) of such Act (20 U.S.C. 7113(a)) is amended—

(1) in paragraph (9)—

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

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) (as amended by subparagraph (A)) the following:

''(D) the incidence and prevalence of reported incidents of bullying and harassment;

''(E) the perception of students regarding their school environment, including with respect to the prevalence and seriousness of incidents of bullying and harassment and the responsiveness of the school to those incidents; and'';

(2) in paragraph (18), by striking ''and'' at the end;

(3) by redesignating paragraph (19) as paragraph (20); and

(4) by inserting after paragraph (18) (as amended by paragraph (2)) the following:

''(19) provides an assurance that the State educational agency will provide assistance to school districts and schools in their efforts to prevent and appropriately respond to incidents of bullying and harassment and describes how the State educational agency will meet the requirements of this paragraph; and''.

(c) LOCAL EDUCATIONAL AGENCY PROGRAM APPLICATION.—Section 4114(d) of such Act (20 U.S.C. 7114(d)) is amended—

(1) in paragraph (2)(B)(i)—

(A) in subclause (I), by striking ''and'' at the end; and

(B) by adding at the end the following:

''(III) performance indicators for bullying and harassment prevention programs and activities; and''; and

(2) in paragraph (7)—

(A) in subparagraph (A), by inserting '', including bullying and harassment'' after ''disorderly conduct'';

(B) in subparagraph (D), by striking ''and'' at the end; and

(C) by adding at the end the following:

''(F) annual notice to parents and students describing the full range of prohibited conduct contained in the discipline policies described in subparagraph (A); and

''(G) grievance procedures for students or parents that seek to register complaints regarding the prohibited conduct contained in the discipline policies described in subparagraph (A), including—

''(i) the name of the school district officials who are designated as responsible for receiving such complaints; and

''(ii) timelines that the school district will follow in the resolution of such complaints;''.

(d) AUTHORIZED ACTIVITIES.—Section 4115(b)(2) of such Act (20 U.S.C. 7115(b)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (vi), by striking ''and'' at the end;

(B) in clause (vii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(viii) teach students about the consequences of bullying and harassment.''; and

(2) in subparagraph (E), by adding at the end the following:

''(xxiii) Programs that address the causes of bullying and harassment and that train teachers, administrators, specialized instructional support personnel, and other school personnel regarding strategies to prevent bullying and harassment and to effectively intervene when incidents of bullying and harassment occur.''.

(e) REPORTING.—Section 4116(a)(2)(B) of such Act (20 U.S.C. 7116(a)(2)(B)) is amended by inserting '', including bullying and harassment,'' after ''drug use and violence''.

(f) IMPACT EVALUATION.—Section 4122 of such Act (20 U.S.C. 7132) is amended—

(1) in subsection (a)(2), by striking ''and school violence'' and inserting ''school violence, including bullying and harassment,''; and

(2) in the first sentence of subsection (b), by inserting '', including bullying and harassment,'' after ''drug use and violence''.

(g) DEFINITIONS.—

(1) DRUG AND VIOLENCE PREVENTION.—Paragraph (3)(B) of section 4151 of such Act (20 U.S.C. 7161) is amended by inserting '', bullying, and other harassment'' after ''sexual harassment and abuse''.

(2) PROTECTIVE FACTOR, BUFFER, OR ASSET.—Paragraph (6) of such section is amended by inserting '', including bullying and harassment'' after ''violent behavior''.

(3) RISK FACTOR.—Paragraph (7) of such section is amended by inserting '', including bullying and harassment'' after ''violent behavior''.

(4) BULLYING AND HARASSMENT.—Such section is further amended—

(A) by redesignating paragraphs (4) through (11) (as amended by paragraphs (2) and (3)), as paragraphs (6) through (13), respectively;

(B) by redesignating paragraphs (1) through (3) (as amended by paragraph (1)), as paragraphs (2) through (4), respectively;

(C) by inserting before paragraph (2) (as redesignated by subparagraph (B)) the following:

''(1) BULLYING.—The term 'bullying'—

''(A) means conduct that adversely affects the ability of one or more students to participate in or benefit from the school's educational programs or activities by placing the student (or students) in reasonable fear of physical harm; and

''(B) includes conduct that is based on—

''(i) a student's actual or perceived—

''(I) race;

''(II) color;

''(III) national origin;

''(IV) sex;

''(V) disability;

''(VI) sexual orientation;

''(VII) gender identity; or

''(VIII) religion;

''(ii) any other distinguishing characteristics that may be defined by a State or local educational agency; or

''(iii) association with a person or group with one or more of the actual or perceived characteristics listed in clause (i) or (ii).''; and

(D) by inserting after paragraph (4) (as redesignated by subparagraph (B)) the following:

''(5) HARASSMENT.—The term 'harassment'—

''(A) means conduct that adversely affects the ability of one or more students to participate in or benefit from the school's educational programs or activities because the conduct, as reasonably perceived by the student (or students), is so severe, persistent, or pervasive; and

''(B) includes conduct that is based on—

''(i) a student's actual or perceived—

''(I) race;

''(II) color;

''(III) national origin;

''(IV) sex;

''(V) disability;

''(VI) sexual orientation;

''(VII) gender identity; or

''(VIII) religion;

''(ii) any other distinguishing characteristics that may be defined by a State or local educational agency; or

''(iii) association with a person or group with one or more of the actual or perceived characteristics listed in clause (i) or (ii).''.

(h) EFFECT ON OTHER LAWS.—

(1) AMENDMENT.—The Safe and Drug-Free Schools and Communities Act (20 U.S.C. 7101 et seq.) is amended by adding at the end the following:

''SEC. 4156. EFFECT ON OTHER LAWS.

''(a) FEDERAL AND STATE NONDISCRIMINATION LAWS.—Nothing in this part shall be construed to invalidate or limit rights, remedies, procedures, or legal standards available to victims of discrimination under any other Federal law or law of a State or political subdivision of a State, including title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 or 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794, 794a), or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.). The obligations imposed by this part are in addition to those imposed by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

''(b) FREE SPEECH AND EXPRESSION LAWS.—Nothing in this part shall be construed to alter legal standards regarding, or affect the rights (including remedies and procedures) available to individuals under, other Federal laws that establish protections for freedom of speech or expression.''.

(2) CLERICAL AMENDMENT.—The table of contents of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended by adding after the item relating to section 4155 the following:

''Sec. 4156. Effect on other laws.''.

Mrs. GILLIBRAND. Mr. President, today, I am pleased to join Senator ROBERT CASEY and eight of my colleagues in introducing the Safe Schools Improvement Act. This important legislation will help to address a crisis going on in our schools—the bullying and harassment of our children. We know that no child can achieve the high academic standards set for them if they are living in fear of bullying or harassment. This legislation will help change the culture in our classrooms and provide schools with the tools they need to promote a safe learning environment.

Findings from the 2007 National School Climate Survey demonstrated that a significant number of students experienced harassment in our schools, often because of their sexual orientation or gender identity. This study also revealed that 96 percent of lesbian, gay, bisexual and transgender students in New York often heard words such as ''gay'' used in a negative connotation. Furthermore, 93 percent of students regularly heard homophobic remarks. The National School Climate Survey also found that 20 percent of students in New York were physically assaulted in their school because of their sexual orientation, while another 13 percent were assaulted because of their gender expression.

This environment of harassment and bullying in our schools lowers the academic performance of our students. In fact, 35 percent of LGBT students reported to have skipped classes at least once in the past month because they felt unsafe in their own school. I find this to be unacceptable.

The Safe Schools Improvement Act will require schools and districts receiving designated Federal funds to adopt codes of conduct specifically prohibiting bullying and harassment, including conduct based on a student's actual or perceived race, color, national origin, sex, sexual orientation, gender identity or religion. The act would ensure that schools and school districts focus on effective prevention programs in order to better prevent and respond to incidences of bullying and harassment, and would require that States report data on incidences of bullying and harassment to the Department of Education.

This bill has received support from a broad coalition of nearly 70 education, civil rights, disability, religious, and youth service organizations, such as the American Association of School Administrators, American Federation of Teachers, American School Health Association, National Association of School Psychologists, National Education Association, National Parent Teacher Association, American Association of University Women, Asian American Justice Center, the Gay, Lesbian and Straight Education Network, Human Rights Campaign and the National Council of La Raza. Additionally the National Safe Schools Partnership, strongly endorses the Safe Schools Improvement Act.

I urge my colleagues to join me in cosponsoring the Safe Schools Improvement Act. I believe that we must support this legislation to ensure that all our children can learn in a safe and productive environment.

By Mr. BEGICH:

S. 3740. A bill to supplement State jurisdiction in Alaska Native villages with Federal and tribal resources to improve the quality of life in rural Alaska while reducing domestic violence against Native women and children and to reduce alcohol and drug abuse and for other purposes; to the Committee on Indian Affairs.

Mr. BEGICH. Mr. President, today I introduce legislation to address issues of great concern to me and to all who care about public safety in Alaska Native villages. Last week President Obama signed the Tribal Law and Order bill into law. That legislation passed because Congress recognized the great need to provide more support for the criminal justice system and communities in Indian Country. While this law has some important provisions that will benefit Alaska Native communities, I believe the remoteness and other unique conditions of many Native villages in my State compel us to do more. That is why I am introducing the Alaska Safe Families and Villages Act of 2010.

My bill will establish a demonstration project for Alaska Native tribes to allow tribes in Alaska to set up tribal courts, establish tribal ordinances, and to impose sanctions on those people who violate the ordinances. It would enhance current tribal authority, while maintaining the State's primary role and responsibility in criminal matters. Additionally, those communities selected to be part of the demonstration project would be eligible for an Alaska Village Peace Officer grant to serve those communities in a holistic manner.

Unfortunately, because of the vastness of Alaska, too many of our Alaska Native villages lack any law enforcement. Too often, minor cases involving alcohol and domestic abuse go unreported because the nearest State Trooper resides in a hub community, located a long and expensive airplane ride away. Frequently, harsh weather prevents the Troopers from flying into a community even when the most heinous acts have occurred. Approximately 71 villages have a sole unarmed Village Patrol Safety officer, VPSO, who must be on duty 24 hours a day and 7 days a week. These hard-working

VPSOs are underpaid, and while communities try to provide some housing and heating assistance, in places where fuel oil can cost as much as $8 a gallon, it can be difficult to sustain the funding for these public servants.

As one who believes strongly in community involvement, I strongly believe tribes in Alaska should have a role in their law enforcement needs. This local control not only provides security for the communities, but also encourages local acceptance of the judicial system as a whole. With the changes in place that my bill would require, residents of Alaska Native villages will see a system that does more than just fly in after a tragedy has occurred.

Just recently communities in the Yukon-Kuskokwim Delta have experienced an alarming suicide cluster. Unfortunately Alaska Native communities have grown accustomed to alarming suicide rates, but in the past two months there have been at least nine self-inflicted deaths in these villages. Nick Tucker, an elder in Emmonak, recently wrote a letter to the State of Alaska's rural affairs director to try to bring attention to the issue. Part of his letter begged for the Governor to call the legislature in session and said it is no longer acceptable for them to wait for the Troopers because ''in the villages, they take forever.'' Part of this continuing suicide cycle is the presence of drugs and alcohol. Predators do not fear police action when they bootleg alcohol or sell drugs in villages, because there is no police presence. One can walk into a village, speak with an elder and that person will tell you who is bootlegging alcohol.

These communities are full of rich heritage and culture, however many have high unemployment due to the remoteness and lack of opportunity in the village. Most economic development in Alaska happens in either the metropolitan areas, or in very remote areas for resource extraction. Many of the villages have unemployment rates above 20 percent. Alaska Natives survival is highly dependent on the land. They subsist on game, berries, and fish. However, as hunting and fishing stocks dwindle many people are feeling disconnected from their heritage and have turned to drugs and alcohol. Too many people in the villages feel isolated and lack a connection, both figuratively and literally. Though educational attainment in the last 40 years has increased dramatically, the dropout rate in Alaska still hovers at 40 percent. Too many of our young men and women have lost hope and are losing a sense of community.

We must give our communities the tools necessary to protect themselves. Too often, we pour resources into urban areas, but become stuck when we try to work toward solutions for our most remote communities. We should no longer allow the answer from anyone to be ''we don't have the resources.'' Alaska Native villages are vibrant, strong communities and we should do everything in our power to work with these communities and answer their calls for help.

I encourage my colleagues to join me on this legislation, and ask for the full Senate to consider and pass it to provide help to some of the places in our country most in need.

By Mrs. BOXER:

S. 3744. A bill to establish Pinnacles National Park in the State of California as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I am pleased to introduce the Pinnacles National Park Act.

This legislation would elevate the Pinnacles National Monument to a National Park. The legislation would also rename the current Pinnacles Wilderness as the Hain Wilderness after Schuyler Hain, an early conservationist whose efforts led to the establishment of the Monument in 1908.

The Pinnacles National Monument ascends out of the beautiful Gabilan Mountains, east of central California's Salinas Valley. Established by President Theodore Roosevelt, the monument protects the spectacular remains of the Neenach Volcano. Colossal monoliths, sheer-walled canyons and talus caves exhibit millions of years of volcanic evolution and tectonic plate movement.

Originally 2500 acres, the monument has grown to encompass 26,000 acres of diverse California wildlands. These parklands represent one of only 5 regions, or less than 2 percent of the world's surface area, supporting a Mediterranean habitat. Less than five percent of the world's Mediterranean habitat remains protected, so it is essential that we preserve this special resource.

Mediterranean habitats provide a rare combination of cool wet winters, hot dry summer days, and evening fog—supporting many plants and animals found nowhere else in the world. One of the animals that calls the Pinnacles home is the critically endangered California condor. Recently, a condor hatched in the wild just outside the monument's boundary—the first to do so in this country in at least 70 years.

The Pinnacles area, famously rendered by John Steinbach in ''Of Mice and Men'' and ''East of Eden,'' is also an important part of California's cultural heritage. The area has held significance for several Native American tribes, early Spanish settlers, and Western homesteaders. Today, the Pinnacles are a global destination for naturalists and outdoor enthusiasts of all kinds, who are attracted by the park's scenic trails, natural resources, and some of the most unique rock-climbing in the world. The Pinnacles National Monument is an important driver of the local tourist economy and jobs, and elevating this site to a National Park will draw even more attention to this incredible destination.

I have worked with Congressman SAM FARR to craft legislation that will further protect this recreational treasure. It has strong support from the surrounding communities and the California Wild Heritage Campaign, a coalition of over 500 businesses and organizations.

I hope my colleagues will join me in recognizing this diverse natural and cultural resource by creating Pinnacles National Park.

By Mrs. LINCOLN:

S. 3745. A bill to amend the Consolidated Farm and Rural Development Act to require the Secretary of Agriculture in the case of low-income States to use 95 percent of the national average nonmetropolitan median income for purposes of determining the eligibility of communities in the States for certain rural development funding; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. LINCOLN. Mr. President, I rise today to offer the Rural Infrastructure Improvement Act of 2010. This legislation will help rural communities have better access to the funding available through the Rural Development programs administered by the U.S. Department of Agriculture, specifically the Rural Water and Wastewater Program and Community Facility Program.

As Chairman of the Senate Committee on Agriculture, Nutrition and Forestry, I am strongly concerned that communities in low-income states such as my state of Arkansas have limited ability to qualify for grant funding through certain Rural Development programs due to current non-metropolitan median household income requirements. The structure we have today creates barriers for many of our poorest rural communities that are most in need. Some of these rural communities have median household incomes well below the national average, yet they are ineligible for any grant funding because USDA applies the State's non-metropolitan median household income to funding formulas instead of the national median household income.

This structure creates disparities for many low-income rural States. For example, in Arkansas, a rural community with a median household income greater than the State's non-metropolitan median household income of $31,845 is ineligible for grant funding through the Rural Water and Community Facility programs. Rural communities in Arkansas who meet all of the other eligibility requirements for funding through these programs are ineligible for grant funding simply because of their low median income level. In fact, 45 States have a higher non-metropolitan median household income level. The legislation I am introducing today is designed to even the playing field for low-income rural communities in Arkansas and several other States.

Forty-eight percent of my home State's population lives in a rural community. The programs offered through USDA Rural Development are vital to our efforts to meet basic needs and foster economic development. Without the types of key infrastructure improvements that can be made through these rural development programs, it will be difficult for many of these communities to reach their full potential and prosper.

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

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

S. 3745

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rural Infrastructure Improvement Act of 2010''.

SEC. 2. MEDIAN INCOME REQUIREMENT ADJUSTMENT.

Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) is amended by inserting after subsection (b) the following:

''(c) MEDIAN INCOME REQUIREMENT ADJUSTMENT.—

''(1) IN GENERAL.—If the Secretary applies a median income requirement to communities for purposes of determining eligibility for the community facilities programs and water, waste disposal, and wastewater programs authorized under this section and sections 306A, 306C, 306D, and 306E, in the case of a State for which the State nonmetropolitan median income is equal to or less than 90 percent of the national average nonmetropolitan median income, the Secretary shall use an amount equal to 95 percent of the national average nonmetropolitan median income in applying the median income requirement for any community in the State.

''(2) TERMINATION OF AUTHORITY.—The authority provided by paragraph (1) terminates on September 30, 2012''.

By Mr. BINGAMAN (for himself, Mrs. SHAHEEN, Mrs. BOXER, and Mrs. FEINSTEIN):

S. 3746. A bill to amend the Energy Policy Act of 2005 to improve the loan guarantee program of the Department of Energy under title XVII of that Act; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am introducing two bills, S. 3746 and S. 3759, making improvements to the operation of the Department of Energy's loan guarantee program. The first makes a number of changes that will ease the administration of the program and allow for quicker processing of applications within the Department. In addition, the bill will add a fourth category to the subsidized loan guarantee program created and funded in the American Reinvestment and Recovery Act that would allow energy efficiency projects to gain access to the program. This bill is substantially similar to a provision that the House of Representatives passed last year as a portion of H.R. 2847 but which did not receive consideration in the Senate.

The second bill institutes a time limit on consideration by the Office of Management and Budget of loan guarantee applications submitted by the Secretary. If the Secretary submits a term sheet for conditional commitment to OMB for review and comment, then OMB has 30 days to submit such comments. After 30 days the Secretary may issue a conditional commitment on the guarantee, taking into account any comments received from OMB, without further authorization from OMB. This provision would not affect the currently used OMB-approved subsidy cost model for loan guarantees or its application.

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. 3746

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

SECTION 1. INCENTIVES FOR INNOVATIVE TECHNOLOGIES LOAN GUARANTEE PROGRAM.

(a) SPECIFIC APPROPRIATION OR CONTRIBUTION.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—

''(1) IN GENERAL.—No guarantee shall be made unless—

''(A) an appropriation for the cost of the guarantee has been made;

''(B) the Secretary has received from the borrower a payment in full for the cost of the guarantee and deposited the payment into the Treasury; or

''(C) a combination of appropriations under subparagraph (A) or payments from the borrower under subparagraph (B) has been made that is sufficient to cover the cost of the guarantee.

''(2) LIMITATION.—The source of payments received from a borrower under subparagraph (B) or (C) of paragraph (1) shall not be a loan or other debt obligation that is made or guaranteed by the Federal Government.''; and

(2) by adding at the end the following:

''(l) CREDIT REPORT.—If, in the opinion of the Secretary, a third-party credit rating of the applicant or project is not relevant to the determination of the credit risk of a project, if the project costs are not projected to exceed $100,000,000, and the applicant agrees to accept the credit rating assigned to the applicant by the Secretary, the Secretary may waive any otherwise applicable requirement (including any requirement described in part 609 of title 10, Code of Federal Regulations) to provide a third-party credit report.

''(m) DIRECT HIRE AUTHORITY.—

''(1) IN GENERAL.—Notwithstanding sections 3304 and sections 3309 through 3318 of title 5, United States Code, the head of the loan guarantee program under this title (referred to in this subsection as the 'Executive Director') may, on a determination that there is a severe shortage of candidates or a severe hiring need for particular positions to carry out the functions of this title, recruit and directly appoint highly qualified critical personnel with specialized knowledge important to the function of the programs under this title into the competitive service.

''(2) EXCEPTION.—The authority granted under paragraph (1) shall not apply to positions in the excepted service or the Senior Executive Service.

''(3) REQUIREMENTS.—In exercising the authority granted under paragraph (1), the Executive Director shall ensure that any action taken by the Executive Director—

''(A) is consistent with the merit principles of section 2301 of title 5, United States Code; and

''(B) complies with the public notice requirements of section 3327 of title 5, United States Code.

''(4) SUNSET.—The authority provided under paragraph (1) shall terminate on September 30, 2011.

''(n) PROFESSIONAL ADVISORS.—The Secretary may—

''(1) retain agents and legal and other professional advisors in connection with guarantees and related activities authorized under this title;

''(2) require applicants for and recipients of loan guarantees to pay all fees and expenses of the agents and advisors; and

''(3) notwithstanding any other provision of law, select such advisors in such manner and using such procedures as the Secretary determines to be appropriate to protect the interests of the United States and achieve the purposes of this title.

''(o) MULTIPLE SITES.—Notwithstanding any contrary requirement (including any provision under part 609.12 of title 10, Code of Federal Regulations) an eligible project may be located on 2 or more non-contiguous sites in the United States.''.

(b) APPLICATIONS FOR MULTIPLE ELIGIBLE PROJECTS.—Section 1705 of the Energy Policy Act of 2005 (42 U.S.C. 16516) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

''(e) MULTIPLE APPLICATIONS.—Notwithstanding any contrary requirement (including any provision under part 609.3(a) of title 10, Code of Federal Regulations), a project applicant or sponsor of an eligible project may submit an application for more than 1 eligible project under this section.''.

(c) ENERGY EFFICIENCY LOAN GUARANTEES.—Section 1705(a) of the Energy Policy Act of 2005 (42 U.S.C. 16516(a)) is amended by adding at the end the following:

''(4) Energy efficiency projects, including projects to retrofit residential, commercial, and industrial buildings, facilities, and equipment.''.

(d) FEES; PROFESSIONAL ADVISORS.—Section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013) is amended—

(1) by striking subsection (f) and inserting the following:

''(f) FEES.—Except as otherwise permitted under subsection (i), administrative costs shall be not more than $100,000 or 10 basis points of the loan.'';

(2) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(3) by inserting after subsection (h) the end the following:

''(i) PROFESSIONAL ADVISORS.—The Secretary may—

''(1) retain agents and legal and other professional advisors in connection with guarantees and related activities authorized under this section;

''(2) require applicants for and recipients of loan guarantees to pay directly, or through the payment of fees to the Secretary, all fees and expenses of the agents and advisors; and

''(3) notwithstanding any other provision of law, select such advisors in such manner and using such procedures as the Secretary determines to be appropriate to protect the

interests of the United States and achieve the purposes of this section.''.

By Mr. HATCH:

S. 3747. A bill to provide for a reduction and limitation on the total number of Federal employees, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. HATCH. Mr. President, I rise today to introduce the Reduce and Cap the Federal Workforce Act. This is a simple straightforward bill that would reduce the number of civilian federal employees—excluding those serving in the Departments of Defense and Homeland Security—to the pre-2009 numbers in each government agency through attrition. Once this reduced number is reached, then each agency would cap the number of employees at that level. Each hire would then have to be offset by another employee leaving that agency.

It is not hard to locate illustrations where the Federal Government is growing at an exceptionally fast pace. Looking at the number of Government employees as a percentage of America's population, one easily sees how we have increased the size of the government.

In 1815, the total population in America was 8.3 million people, yet there were only 4,837 Federal Government employees. That represents nearly 1/20 of 1 percent of Americans who were Federal employees. From 1981 through 2008, the civilian work force remained at about 1.1 million to 1.2 million.

The Obama administration says the Government will grow to 2.15 million employees this year serving roughly 310 million Americans. That is nearly 1 percent of the population, or put another way, is 20 times the number of government employees than there were in 1815 and almost a 50 percent increase since 2008. The actual numbers are likely to be much higher.

Some have estimated the newly enacted health care bill could add many thousands of Federal employees—as many as 16,000 new Internal Revenue Service employees alone. It has been reported that the recently enacted financial regulatory bill will result in the hiring of at least one thousand new federal government employees. It has been reported the SEC will need to hire an additional 800 employees alone.

I am introducing this legislation in order to ensure that the size of our federal government is reduced to the pre-2009 size and does not expand thereafter. This legislation is supported by Americans for Tax Reform, the American Conservative Union, and Americans for Limited Government.

I believe we need a limited federal government and this legislation is one way we can limit the size of the Government while decreasing Government spending. Our Nation, children, and grandchildren cannot be buried in debt created by an agenda to exponentially grow the size of the Government. Enough is enough.

By Mr. HATCH (for himself, Mr. DODD, Mr. BURR, Mr. REED, Mr. ENSIGN, and Mr. FRANKEN):

S. 3751. A bill to amend the Stem Cell Therapeutic and Research Act of 2005; to the Committee on Health, Education, Labor, and Pensions.

Mr. HATCH. Mr. President, I am pleased today to introduce the Stem Cell Therapeutic and Research Reauthorization Act of 2010 which reauthorizes the Stem Cell Therapeutic and Research Act of 2005, P.L. 109–129, through the end of 2015. I am also grateful that Senators DODD, BURR, REED, ENSIGN and FRANKEN have joined me as sponsors of this bipartisan bill.

Over the past few months, we have worked with the National Marrow Donor Program, NMDP, and cord blood transplantation experts, specifically Dr. Linda Kelley of the University of Utah and Dr. Joanne Kurtzberg of Duke University. It is my strong hope that our bill is considered by the Senate Committee on Health, Education, Labor and Pensions when the Congress returns in mid-September and is signed into law before the end of the year.

Our legislation makes several small but important additions to the existing program.

First, the bill reauthorizes both the C.W. Bill Young Cell Transplantation Program, which is commonly referred to as the Program and the National Cord Blood Inventory program, which is often called the NCBI, for an additional 5 years through 2015.

The total authorization levels for both programs combined would be $53 million in each of the 5 years, thus staying consistent with the authorization level established in the original statute. Specifically, the authorization level for the program would be $30 million in fiscal years 2011 through 2014 and $33 million in fiscal year 2015. The authorization levels for NCBI would be $23 million for fiscal years 2011 through 2014 and $20 million in fiscal year 2015.

Second, the original statute intended for cord blood banks to become self-sufficient in the future. Five years ago, it was our intent that cord blood banks would eventually be able to function and operate without federal funding. In fact, the HELP Committee's August 31, 2005 report states the following on this important issue: ''The committee anticipated that the funding authorized for establishing and strengthening the cord blood unit inventory will be devoted primarily to defraying the start-up expenses, including developing the expanded inventory in an optimal fashion. While we feel that such activities clearly have the potential to be self-supporting in time, we also recognize that sufficient funding over an adequate period of time will be necessary for these activities to realize their full potential. It is the committee's expectation that the Secretary will closely scrutinize all costs related to this legislation, so that tax dollars are spent judiciously to achieve the maximum effect.''

Almost 5 years have passed since the original statute was signed into law and cord blood banks are still dependent on Federal funding due to the many obstacles surrounding cord blood collection and cord blood storage. Therefore, our bill includes language to the contracting section requiring qualified cord blood banks to develop an annual plan and demonstrate ongoing measurable progress toward achieving self-sufficiency. While I recognize and understand that cord blood donation and collection is a new, challenging field of research, this modification was extremely important to me to ensure that taxpayers' precious dollars are spent prudently and that public cord blood banks are actually doing what the drafters of the original law intended.

The contracting provisions of our bill also require cord blood banks to provide a plan on how to increase cord blood collection, assist with the establishment of new collection sites or contract with new collection sites. Both the self-sufficiency requirements and the cord blood collection requirements would apply to both new cord blood bank applicants and existing cord blood banks extending their contracts.

Third, our bill also calls for the collection and maintenance of at least 150,000 new units of high-quality cord blood to be made available for transplantation through the C.W. Bill Young Cell Transplantation Program. The original statute called for the collection of 150,000 new units, and we believed that there needed to be some flexibility on the total number of units collected.

Fourth, in order to ensure that the appropriate science is reflected in this bill, the legislation modifies the definition of a first degree relative as the sibling of an individual in need of a transplant. According to scientists and researchers who specialize in cord blood transplantation, the only immediate family members able to donate cord blood are the siblings of a person in need of a transplant. The original statute defined first degree relatives as parents and siblings.

Fifth, the Program would support studies and demonstration projects that would study increasing cord blood donation and collection from a genetically diverse population, including exploring novel approaches or incentives to expand the number of cord blood collection sites partnering with federal cord blood banks.

Sixth, our bill extends the privacy protections included in the original statute for cord blood transplant patients and donors to bone marrow transplant patients and donors.

Finally, the legislation includes a study on cord blood donation and collection by the General Accountability Office. The final report would be submitted to the appropriate House and Senate Committees one year after enactment of our bill.

I am proud of this legislation because it proves that bipartisanship still exists in the United States Senate. This subject is near and dear to my heart. When this legislation was signed into law in 2005, it offered us a rare opportunity to make a difference in the lives of those suffering from a serious illness or those who have family members with illnesses requiring cord blood or bone marrow transplants. Back then, our goal was to increase the number of bone marrow and cord blood donors. Today, our goal continues to be increasing the number of bone marrow and cord blood donations and passage of this legislation will make it easier to do just that.

I will continue to do everything possible to provide transplant patients with the best possible options by ensuring a strong future for bone marrow and cord blood transplantation in this country. Patients in need of a transplant deserve nothing less and passing this legislation is the pathway to being successful in that endeavor.

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. 3751

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 ''Stem Cell Therapeutic and Research Reauthorization Act of 2010''.

SEC. 2. AMENDMENTS TO THE STEM CELL THERAPEUTIC AND RESEARCH ACT OF 2005.

(a) CORD BLOOD INVENTORY.—Section 2 of the Stem Cell Therapeutic and Research Act of 2005 (42 U.S.C. 274k note) is amended—

(1) in subsection (a), by inserting ''at least'' before ''150,000'';

(2) in subsection (c)(3), by inserting ''at least'' before ''150,000'';

(3) in subsection (d)—

(A) in paragraph (2), by striking ''; and'' and inserting '';'';

(B) by redesignating paragraph (3) as paragraph (5); and

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

''(3) will provide a plan to increase cord blood unit collections at collection sites that exist at the time of application, assist with the establishment of new collection sites, or contract with new collection sites;

''(4) will annually provide to the Secretary a plan for, and demonstrate, ongoing measurable progress toward achieving self-sufficiency of cord blood unit collection and banking operations; and'';

(4) in subsection (e)—

(A) in paragraph (1)—

(i) by striking ''10 years'' and inserting ''a period of at least 10 years beginning on the last date on which the recipient of a contract under this section receives Federal funds under this section''; and

(ii) by striking the second sentence and inserting ''The Secretary shall ensure that no Federal funds shall be obligated under any such contract after the date that is 5 years after the date on which the contract is entered into, except as provided in paragraphs (2) and (3).'';

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A)—

(I) by striking ''Subject to paragraph (1)(B), the'' and inserting ''The''; and

(II) by striking ''3'' and inserting ''5'';

(ii) in subparagraph (A)—

(I) by inserting ''at least'' before ''150,000''; and

(II) by striking ''; and'' and inserting '';'';

(iii) in subparagraph (B)—

(I) by inserting ''meeting the requirements under subsection (d)'' after ''receive an application for a contract under this section''; and

(II) by striking ''or the Secretary'' and all that follows through the period at the end and inserting ''; or''; and

(iv) by adding at the end the following:

''(C) the Secretary determines that the outstanding inventory need cannot be met by the qualified cord blood banks under contract under this section.''; and

(C) by striking paragraph (3) and inserting the following:

''(3) EXTENSION ELIGIBILITY.—A qualified cord blood bank shall be eligible for a 5-year extension of a contract awarded under this section, as described in paragraph (2), provided that the qualified cord blood bank—

''(A) demonstrates a superior ability to satisfy the requirements described in subsection (b) and achieves the overall goals for which the contract was awarded;

''(B) provides a plan for how the qualified cord blood bank will increase cord blood unit collections at collection sites that exist at the time of consideration for such extension of a contract, assist with the establishment of new collection sites, or contract with new collection sites; and

''(C) annually provides to the Secretary a plan for, and demonstrates, ongoing measurable progress toward achieving self-sufficiency of cord blood unit collection and banking operations.'';

(5) in subsection (g)(4), by striking ''or parent''; and

(6) in subsection (h)—

(A) by striking paragraph (2) and inserting the following:

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the program under this section $23,000,000 for each of fiscal years 2011 through 2014 and $20,000,000 for fiscal year 2015. Such funds so appropriated shall remain available until expended.''; and

(B) in paragraph (3), by striking ''in each of fiscal years 2007 through 2009'' and inserting ''for fiscal years 2011 through 2015''.

(b) NATIONAL PROGRAM.—Section 379 of the Public Health Service Act (42 U.S.C. 274k) is amended—

(1) by striking subsection (a)(6) and inserting the following:

''(6) The Secretary, acting through the Advisory Council, shall submit to Congress an annual report on the activities carried out under this section.'';

(2) by striking subsection (d)(2)(D) and inserting the following:

''(D) support studies and demonstration and outreach projects for the purpose of increasing cord blood unit donation and collection from a genetically diverse population, including exploring novel approaches or incentives, such as remote or other innovative technological advances that could be used to collect cord blood units, to expand the number of cord blood unit collection sites partnering with cord blood banks that receive a contract under the National Cord Blood Bank Inventory program under section 2 of the Stem Cell Therapeutic and Research Act of 2005;''; and

(3) by striking subsection (f)(5)(A) and inserting the following:

''(A) require the establishment of a system of strict confidentiality to protect the identity and privacy of patients and donors in accordance with Federal and State law; and''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 379B of the Public Health Service Act (42 U.S.C. 274m) is amended by striking ''$34,000,000'' and all that follows through the period at the end, and inserting ''$30,000,000 for each of fiscal years 2011 through 2014 and $33,000,000 for fiscal year 2015. Such funds so appropriated shall remain available until expended.''.

(d) REPORT ON CORD BLOOD UNIT DONATION AND COLLECTION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate, the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives, and the Secretary of Health and Human Services a report reviewing studies, demonstration programs, and outreach efforts for the purpose of increasing cord blood unit donation and collection for the National Cord Blood Inventory to ensure a high-quality and genetically diverse inventory of cord blood units.

(2) CONTENTS.—The report described in paragraph (1) shall include a review of such studies, demonstration programs, and outreach efforts under section 2 of the Stem Cell Therapeutic and Research Act of 2005 (42 U.S.C. 274k note) (as amended by this Act) and section 379 of the Public Health Service Act (42 U.S.C. 274k) (as amended by this Act), including—

(A) a description of the challenges and barriers to expanding the number of cord blood unit collection sites, including cost, the impact of regulatory and administrative requirements, and the capacity of cord blood banks to maintain high-quality units;

(B) remote or other innovative technological advances that could be used to collect cord blood units;

(C) appropriate methods for improving provider education about collecting cord blood units for the national inventory and participation in such collection activities;

(D) estimates of the number of cord blood unit collection sites necessary to meet the outstanding national inventory need and the characteristics of such collection sites that would help increase the genetic diversity and enhance the quality of cord blood units collected;

(E) best practices for establishing and sustaining partnerships for cord blood unit collection at medical facilities with a high number of minority births;

(F) potential and proven incentives to encourage hospitals to become cord blood unit collection sites and partner with cord blood banks participating in the National Cord Blood Inventory under section 2 of the Stem Cell Therapeutic and Research Act of 2005 and to assist cord blood banks in expanding the number of cord blood unit collection sites with which such cord blood banks partner; and

(G) recommendations about methods cord blood banks and collection sites could use to lower costs and improve efficiency of cord blood unit collection without decreasing the quality of the cord blood units collected.

Mr. DODD. Mr. President, I am pleased to join Senator HATCH, Senator REED, Senator BURR, Senator ENSIGN and Senator FRANKEN in introducing the Stem Cell Therapeutic and Research Reauthorization Act of 2010, a bill that will benefit some of the most gravely ill patients—those in need of a

blood stem cell transplant. The bill we are introducing today reauthorizes the vital work being done for patients as a result of the Stem Cell Therapeutic and Research Act of 2005.

I first joined Senator HATCH more than seven years ago on legislation to create a national network of cord blood banks and a cord blood registry. Five years ago, when the Health, Education, Labor and Pensions Committee took up cord blood legislation, Senator HATCH and I, working with many of our colleagues on and off the committee, expanded the scope of our legislation to include a reauthorization of the national bone marrow program and updated the cord blood provisions to be consistent with the recommendations made by the Institute of Medicine's report, ''Cord Blood: Establishing a National Hematopoietic Stem Cell Bank Program.'' In the end, that legislation, the Stem Cell Therapeutic and Research Act of 2005, passed the senate unanimously.

Since then we have learned a lot of about adult stem cell transplantation. There are currently twelve public cord blood banks across the U.S. and cord blood cells account for 22 percent of all transplants as of 2009. Among minorities, transplants using cord blood as the cell source are even higher. As of 2005, survival rates for transplants involving an unrelated donor are almost identical to those of a related donor which represents a near doubling of the survival rates for unrelated donor recipients over the past 15 years.

The bill we are introducing today builds on the success of the National Cord Blood Inventory and the national bone marrow transplantation program, making minor improvements to both. Among the most critical changes to the law is the prioritization of the creation of new cord blood collection sites so that we can increase the National Cord Blood Inventory. The 2005 law set a goal of collecting and maintaining 150,000 new units of high-quality cord blood. Unfortunately, the inventory is well below that goal and the transplantation needs of patients. In part, that is because the funding has not kept pace with what was authorized by the 2005 law. While I applaud President Obama for including additional funding for the National Cord Blood Inventory and the national bone marrow transplantation program in his fiscal year 2011 budget, I find it regrettable that President Bush did not provide full funding for these programs in any of his budgets, despite his vocal support for these programs and adult stem cells generally.

In my own state of Connecticut, there are more than 128,000 donors participating in the National Marrow Donor Program. There is some very exciting work going on at Yale University and Yale New Haven Hospital involving marrow or cord blood transplantation. In fact, last May, I had the privilege of meeting Ms. Teena Conquest, a bone marrow donor from Middletown, Connecticut, and the recipient of her bone marrow, Rebecca Christy, from Iowa. It was truly inspiring to hear their story and how one woman's generosity saved another woman's life.

I am deeply disappointed that there are currently no cord blood collection sites in the state of Connecticut through the National Cord Blood Inventory program. Currently, more than 160 hospitals in the U.S. have an agreement with a public cord blood bank through the National Cord Blood Inventory program to perform collections for banks within the National Marrow Donor Program network. While none of those hospitals are in Connecticut, it is my strong hope that with this reauthorization, we will be prioritizing the establishment of new cord blood collection sites for the public program. I strongly encourage hospitals in Connecticut who meet the criteria to become a cord blood collection site and help increase the inventory of cord blood so that patients in need can find a match.

As was the case for Ms. Conquest and Ms. Christy, the therapeutic benefits of bone marrow are tremendous and well established. Bone marrow transplants have been used for nearly half a century to treat patients suffering from diseases such as leukemia, Hodgkin's Disease, sickle cell anemia, and others. The National Marrow Donor Program, NMDP, provides a single point of access, the National Registry, to nearly 8 million volunteer bone marrow donors and 160,000 cord blood units, including more than 28,000 federally funded units in the National Cord Blood Inventory. The NMDP has helped countless patients and families understand their disease and treatment options with educational resources and one-on-one case management support.

I urge my colleagues on both sides of the aisle to join me and my colleagues in support of this important legislation. It is my strong hope that we can move quickly to mark up this legislation in September and shortly thereafter pass this bill in the Senate.

By Mr. REED (for himself, Mrs. SHAHEEN, and Mr. WHITEHOUSE):

S. 3753. A bill to provide for the treatment and temporary financing of short-time compensation programs, to the Committee on Finance.

Mr. REED. 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. 3753

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Preventing Unemployment Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.

(a) DEFINITION.—

(1) IN GENERAL.—Section 3306 of the Internal Revenue Code of 1986 (26 U.S.C. 3306) is amended by adding at the end the following new subsection:

''(v) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this chapter, the term 'short-time compensation program' means a program under which—

''(1) the participation of an employer is voluntary;

''(2) an employer reduces the number of hours worked by employees in lieu of temporary layoffs;

''(3) such employees whose workweeks have been reduced by at least 10 percent, and by not more than the percentage, if any, that is determined by the State to be appropriate, are eligible for unemployment compensation;

''(4) the amount of unemployment compensation payable to any such employee is a pro rata portion of the unemployment compensation which would be payable to the employee if such employee were totally unemployed;

''(5) such employees are not expected to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but are required to be available for their normal workweek;

''(6) eligible employees may participate, as appropriate, in an employer-sponsored training program to enhance job skills if such program has been approved by the State agency;

''(7) the State agency shall require an employer to certify that the employer will continue to provide health benefits and retirement benefits under a defined benefit plan (as defined in section 414(j)) and contributions under a defined contribution plan (as defined in section 414(i)) to any employee whose workweek is reduced under the program under the same terms and conditions as though the workweek of such employee had not been reduced;

''(8) the State agency shall require an employer (or an employer's association which is party to a collective bargaining agreement) to submit a written plan describing the manner in which the requirements of this subsection will be implemented and containing such other information as the Secretary of Labor determines is appropriate;

''(9) in the case of employees represented by a union, the appropriate official of the union has agreed to the terms of the employer's written plan and implementation is consistent with employer obligations under the National Labor Relations Act; and

''(10) only such other provisions are included in the State law as the Secretary of Labor determines appropriate for purposes of a short-term compensation program.''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(B) DELAY PERMITTED.—In the case of a State that is administering a short-time compensation program as of the date of the

enactment of this Act and the State law cannot be administered consistent with the amendment made by paragraph (1), such amendment shall take effect on the earlier of—

(i) the date the State changes its State law in order to be consistent with such amendment; or

(ii) the date that is 2 years after the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS.—

(1) INTERNAL REVENUE CODE OF 1986.—

(A) Subparagraph (E) of section 3304(a)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

''(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined under section 3306(v));''.

(B) Subsection (f) of section 3306 of the Internal Revenue Code of 1986 is amended—

(i) by striking paragraph (5) (relating to short-term compensation) and inserting the following new paragraph:

''(5) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in subsection (v)); and'', and

(ii) by redesignating paragraph (5) (relating to self-employment assistance program) as paragraph (6).

(2) SOCIAL SECURITY ACT.—Section 303(a)(5) of the Social Security Act is amended by striking ''the payment of short-time compensation under a plan approved by the Secretary of Labor'' and inserting ''the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986)''.

(3) UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992.—Subsections (b) through (d) of section 401 of the Unemployment Compensation Amendments of 1992 (26 U.S.C. 3304 note) are repealed.

SEC. 3. TEMPORARY FINANCING OF CERTAIN SHORT-TIME COMPENSATION PAYMENTS.

(a) PAYMENTS TO STATES.—

(1) IN GENERAL.—Subject to paragraph (3), there shall be paid to a State an amount equal to 100 percent of the amount of short-time compensation paid under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2(a)) under the provisions of the State law. Notwithstanding section 2(a)(2), a State administering a short-term compensation program as of the date of the enactment of this Act shall not be eligible to receive payments under this section until the program administered by such State meets the requirements of section 3306(v) of the Internal Revenue Code of 1986 (as so added). Payments shall also be made for additional State administrative expenses incurred (as determined by the Secretary).

(2) TERMS OF PAYMENTS.—Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) LIMITATIONS ON PAYMENTS.—

(A) GENERAL PAYMENT LIMITATIONS.—No payments shall be made to a State under this section for benefits paid to an individual by the State in excess of 26 weeks of benefits.

(B) EMPLOYER LIMITATIONS.—No payments shall be made to a State under this section for benefits paid to an individual by the State under a short-time compensation program if such individual is employed by an employer—

(i) whose workforce during the 3 months preceding the date of the submission of the employer's short-time compensation plan has been reduced by temporary layoffs of more than 20 percent; or

(ii) on a seasonal, temporary, or intermittent basis.

(b) APPLICABILITY.—Payments to a State under subsection (a) shall be available for weeks of unemployment—

(1) beginning on or after the date of the enactment of this Act; and

(2) ending on or before the date that is 3 years after the date of the enactment of this Act.

(c) FUNDING AND CERTIFICATIONS.—

(1) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

(2) CERTIFICATIONS.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(d) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(2) STATE; STATE AGENCY; STATE LAW.—The terms ''State'', ''State agency'', and ''State law'' have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 4. TEMPORARY FEDERAL SHORT-TIME COMPENSATION.

(a) FEDERAL-STATE AGREEMENTS.—

(1) IN GENERAL.—Any State which desires to do so may enter into, and participate in, an agreement under this section with the Secretary provided that such State's law does not provide for the payment of short-time compensation under—

(A) a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2(a)); or

(B) subsections (b) through (d) of section 401 of the Unemployment Compensation Amendments Act of 1992, as in effect on the day before the date of the enactment of this Act.

(2) ABILITY TO TERMINATE.—Any State which is a party to an agreement under this section may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF FEDERAL-STATE AGREEMENT.—

(1) IN GENERAL.—Any agreement under this section shall provide that the State agency of the State will make payments of short-time compensation under a plan approved by the State. Such plan shall provide that payments are made in accordance with the requirements under section 3306(v) of the Internal Revenue Code of 1986, as added by section 2(a).

(2) LIMITATIONS ON PLANS.—

(A) GENERAL PAYMENT LIMITATIONS.—A short-time compensation plan approved by a State shall not permit the payment of short-time compensation in excess of 26 weeks.

(B) EMPLOYER LIMITATIONS.—A short-time compensation plan approved by a State shall not provide payments to an individual if such individual is employed by an employer—

(i) whose workforce during the 3 months preceding the date of the submission of the employer's short-time compensation plan has been reduced by temporary layoffs of more than 20 percent; or

(ii) on a seasonal, temporary, or intermittent basis.

(3) EMPLOYER PAYMENT OF COSTS.—Any short-time compensation plan entered into by an employer must provide that the employer will pay the State an amount equal to one-half of the amount of short-time compensation paid under such plan. Such amount shall be deposited in the State's unemployment fund and shall not be used for purposes of calculating an employer's contribution rate under section 3303(a)(1) of the Internal Revenue Code of 1986.

(c) PAYMENTS TO STATES.—

(1) IN GENERAL.—There shall be paid to each State with an agreement under this section an amount equal to—

(A) one-half of the amount of short-time compensation paid to individuals by the State pursuant to such agreement; and

(B) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary).

(2) TERMS OF PAYMENTS.—Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

(4) CERTIFICATIONS.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(d) APPLICABILITY.—An agreement entered into under this section shall apply to weeks of unemployment—

(1) beginning on or after the date on which such agreement is entered into; and

(2) ending on or before the date that is 2 years after the date of the enactment of this Act.

(e) TRANSITION RULE.—If a State has entered into an agreement under this section and subsequently enacts a State law providing for the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2(a)), the State shall not be eligible for payments under this section for weeks of unemployment beginning after the effective date of such State law.

(f) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(2) STATE; STATE AGENCY; STATE LAW.—The terms ''State'', ''State agency'', and ''State law'' have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 5. GRANTS FOR IMPLEMENTATION OF STATE SHORT-TIME COMPENSATION PROGRAMS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary shall award start-up grants to State agencies—

(A) in States that enact short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2(a)) on or after May 1,

2010, for the purpose of creating such programs; and

(B) that apply for such grants not later than September 30, 2012.

(2) AMOUNT.—The amount of a grant awarded under paragraph (1) shall be an amount determined by the Secretary based on the costs of implementing a short-time compensation program.

(3) ONLY 1 GRANT PER STATE.—A State agency is only eligible to receive 1 grant under this section.

(b) FUNDING.—There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

(c) REPORTING.—The Secretary may establish reporting requirements for State agencies receiving a grant under this section in order to provide oversight of grant funds used by States for the creation of the short-time compensation programs.

(d) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(2) STATE; STATE AGENCY.—The terms ''State'' and ''State agency'' have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 6. ASSISTANCE AND GUIDANCE IN IMPLEMENTING PROGRAMS.

In order to assist States in establishing, qualifying, and implementing short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2(a)), the Secretary of Labor shall—

(1) develop model legislative language which may be used by States in developing and enacting such programs and periodically review and revise such model legislative language;

(2) provide technical assistance and guidance in developing, enacting, and implementing such programs;

(3) establish reporting requirements for States, including reporting on—

(A) the number of averted layoffs;

(B) the number of participating companies and workers; and

(C) such other items as the Secretary of Labor determines are appropriate.

SEC. 7. REPORTS.

(a) INITIAL REPORT.—Not later than 4 years after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress and to the President a report or reports on the implementation of the provisions of this Act, including an analysis of the significant impediments to State enactment and implementation of short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986, as added by section 2(a)).

(b) SUBSEQUENT REPORTS.—After the submission of the report under subsection (a), the Secretary of Labor may submit such additional reports on the implementation of short-time compensation programs as the Secretary deems appropriate.

(c) FUNDING.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary of Labor, $1,500,000 to carry out this section, to remain available without fiscal year limitation.

By Mr. ROCKEFELLER:

S. 3756. A bill to amend the Communications Act of 1934 to provide public safety providers an additional 10 megahertz of spectrum to support a national, interoperable wireless broadband network and authorize the Federal Communications Commission to hold incentive auctions to provide funding to support such a network, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Public Safety Spectrum and Wireless Innovation Act.

Radio spectrum is a very valuable resource. It can grow our economy and put new and innovative wireless services in the hands of consumers and businesses. It can enhance our public safety by fostering communications between first responders when the unthinkable occurs. But it is also scarce. That is why we need a forward-thinking spectrum policy that promotes smart use of our airwaves—and provides public safety officials with the wireless resources they need to keep us safe.

The Public Safety Spectrum and Wireless Innovation Act will do just that.

First, this legislation will provide the Federal Communications Commission with the authority to hold incentive auctions. This will help put valuable spectrum resources into the hands of companies that can create innovative new services for American consumers and businesses. This proposal will not require the return of spectrum from existing commercial users, but will instead provide them with a voluntary opportunity to realize a portion of auction revenues if they wish to facilitate putting spectrum to new and productive uses.

Second, this legislation will provide public safety officials with an additional 10 megahertz of spectrum known as the ''D-block.'' This spectrum will support a national, interoperable wireless broadband network that will help first responders protect us and keep us from harm. I believe this is the right thing to do, because we owe those courageous individuals who wear the shield the resources they need to do their job. But more than that, by providing authority for incentive auctions, this legislation will offer a revenue stream to assist public safety with construction and maintenance of their network.

The American people deserve to have the best and most innovative uses of wireless networks anywhere. They deserve to know our first responders have access to the airwaves they need when tragedy strikes. So I urge my colleagues to join me and support this important legislation.

By Mr. BINGAMAN (for himself, Mrs. BOXER, and Mrs. FEINSTEIN):

S. 3759. A bill to amend the Energy Policy Act of 2005 to authorize the Secretary of Energy to issue conditional commitments for loan guarantees under certain circumstances; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. 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. 3759

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

SECTION 1. CONDITIONAL COMMITMENTS FOR LOAN GUARANTEES.

Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by adding at the end the following:

''(l) DEADLINE FOR OMB REVIEW.—If the Secretary submits to the Director of the Office of Management and Budget a loan guarantee for review and comment, the Secretary may, taking into consideration comments made by the Director, issue a conditional commitment to enter into the loan guarantee at least 30 days subsequent to the submittal, without further approval from the Director.''.

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

S. 3760. A bill to amend the Internal Revenue Code of 1986 to expand personal savings and retirement savings coverage by allowing employees not covered by qualified retirement plans to save for retirement through automatic IRAs, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Automatic IRA Act of 2010. When fully phased in, this bill will give nearly 42 million Americans nationwide an easy, effective way to take responsibility for their financial futures and plan for a secure retirement. The act incorporates the President's call, in his proposed fiscal year 2010 and fiscal year 2011 budgets, for Congress to enact automatic IRA legislation.

Currently, about half of American workers have no opportunity to save for retirement at work. In my home State of New Mexico, that share is nearly 60 percent. Among those lacking coverage at work, only 1 in 10 contributes annually to an individual retirement account, IRA; the rest generally make no dedicated savings for retirement. The result? An alarming number of American workers are woefully unprepared for a financially secure retirement. According to Boston College's Center for Retirement Research, ''in 2009 half of today's households will not have enough retirement income to maintain their pre-retirement standard of living, even if they work to age 65, which is above the current average retirement age.'' Especially in this period of economic uncertainty, it is imperative that Congress focus on this retirement savings crisis. My bill takes a commonsense approach to doing so.

Under this bill, most private sector employees working in establishments of 10 or more employees who are not currently covered by a workplace retirement plan would be given the opportunity to save through regular payroll deposits that continue automatically, unless they elect out. The savings will be deposited into the worker's

own IRA, which will be subject to the laws already in place governing IRA accounts. Employers' administrative functions will be minimal. And the arrangement is market oriented; other than the smallest of accounts, automatic IRAs will be provided by the same banks, mutual funds, insurance carriers, and other institutions that currently provide them.

The automatic IRA approach is intended to help these households overcome the barrier of inertia. It builds on the successful use—encouraged by reforms I strongly supported the Pension Protection Act of 2006—of automatic features in 401(k) plans that encourage employees toward sensible decisions (while allowing them to make alternative choices). We have already seen evidence that automatic 401(k) enrollment can dramatically boost employee participation rates, from seven in ten eligible workers to nine in ten. And in the 401(k) context, the gains are even more striking for population groups least likely to save, including women, Latino, and low-income workers.

Of the 75 million American workers who now are not covered by employment-based retirement plans, an estimated 42 million would be eligible to save and enroll under automatic IRA legislation. This includes more than 250,000 in my home State of New Mexico. Many of these individuals are familiar with IRAs. But when asked why they have not used the existing program, about half point to issues relating to setup and decisionmaking as the key barriers. The automatic IRA would eliminate these barriers, and the Retirement Security Project estimates that automatic IRA legislation could increase net national saving by nearly $15 billion annually.

This is the third consecutive Congress in which I have introduced automatic IRA legislation. The concept was initially developed by scholars at the Brookings Institution and Heritage Foundation. Indeed, the automatic IRA concept has long enjoyed broad support across the political spectrum. For instance, Martin Feldstein, chief economic advisor to President Reagan, has described himself as ''a great enthusiast of automatic enrollment IRAs'' who thinks ''as a policy, it's a no-brainer'' and ''can't imagine why there would be any significant opposition from political players on either side of the aisle.''

Finally, this bill seeks to send a strong signal of preference for employers to offer qualified retirement plans, like 401(k)s. Among other features, it doubles the credit for employers that newly establish qualified plans and it directs the Secretaries of the Treasury and Labor to implement final regulations and establish a model plan for Multiple Employer Plans.

I am grateful that my colleague on the Senate Finance Committee, Senator KERRY, is joining me in introducing this bill. I am also pleased to note the broad range of stakeholders supporting the automatic IRA concept, including AARP; the American Society of Pension Professionals & Actuaries; Aspen Institute's Initiative on Financial Security; the Business and Professional Women's Foundation; CFED; Consumers Union; FINRA; the Minority Business Roundtable; New Economics for Women; the United States Black Chamber; the United States Women's Chamber of Commerce; Women Impacting Public Policy; and the Women's Institute for a Secure Retirement.

Ensuring easy access to a retirement account and the ability to have part of their wages go directly from their paycheck into this account are proven strategies to encourage retirement savings. I call on the Senate to take up this bill in the fall and to include it in legislation extending the 2001 and 2003 tax cuts.

By Mr. REID (for himself and Mr. ENSIGN):

S. 3762. A bill to reinstate funds to the Federal Land Disposal Account; read the first time.

Mr. REID. 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. 3762

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

SECTION 1. FEDERAL LAND DISPOSAL ACCOUNT.

Notwithstanding section 206(f) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305(f)), any balance remaining in the Federal Land Disposal Account on July 24, 2010, shall be reinstated and available for expenditure in accordance with section 206(b) of that Act (43 U.S.C. 2305(b)), to remain available until expended.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 607—RECOGNIZING THE MONTH OF OCTOBER 2010 AS ''NATIONAL PRINCIPALS MONTH''

Mr. DORGAN (for himself, Mr. LUGAR, Mr. FRANKEN, Mr. AKAKA, Mr. BAUCUS, Mrs. MURRAY, Mr. CONRAD, Mrs. FEINSTEIN, Mr. CARDIN, Mr. TESTER, Mr. BEGICH, Mrs. LINCOLN, Mr. GOODWIN, Mr. MENENDEZ, and Mr. CASEY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 607

Whereas the National Association of Elementary School Principals and the National Association of Secondary School Principals have declared the month of October 2010 as ''National Principals Month'';

Whereas school leaders are expected to be educational visionaries, instructional leaders, assessment experts, disciplinarians, community builders, public relations experts, budget analysts, facility managers, special programs administrators, and guardians of various legal, contractual, and policy mandates and initiatives, as well as being entrusted with our young people, our most valuable resource;

Whereas principals set the academic tone for their schools and work collaboratively with teachers to develop and maintain high curriculum standards, develop mission statements, and set performance goals and objectives;

Whereas the vision, dedication, and determination of a principal provides the mobilizing force behind any school reform effort; and

Whereas the celebration of ''National Principals Month'' would honor elementary, middle level, and high school principals and recognize the importance of school leadership in ensuring that every child has access to a high-quality education: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the month of October 2010 as ''National Principals Month''; and

(2) honors the contribution of school principals in the elementary and secondary schools of our Nation by supporting the goals and ideals of ''National Principals Month''.

SENATE RESOLUTION 608—EXPRESSING THE SENSE OF THE SENATE THAT THE SECRETARY OF THE INTERIOR SHOULD TAKE IMMEDIATE ACTION TO EXPEDITE THE REVIEW AND APPROPRIATE APPROVAL OF APPLICATIONS FOR SHALLOW WATER DRILLING PERMITS IN THE GULF OF MEXICO, THE BEAUFORT SEA, AND THE CHUKCHI SEA

Mrs. HUTCHISON (for herself, Ms. LANDRIEU, Mr. WICKER, Mr. COCHRAN, Mr. VITTER, Mr. CORNYN, Mr. SESSIONS, Mr. BEGICH, Ms. MURKOWSKI, and Mr. SHELBY) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 608

Whereas on May 6, 2010, in response to the oil spill from the mobile offshore drilling unit Deepwater Horizon, and without prior public review or notice, the Secretary of the Interior announced an immediate moratorium on the approval of all offshore oil and gas drilling permits until an offshore safety review was completed;

Whereas on May 28, 2010, following a Department of the Interior safety review, and with the support of many members of the Senate, the President lifted the offshore moratorium for shallow water drilling operations for those drilling rigs or platforms equipped with blowout prevention equipment located above the water surface;

Whereas on June 2, 2010, the Secretary of the Interior confirmed in a press release that the shallow water drilling moratorium was lifted, but that such drilling operations must ''satisfy new safety and environmental requirements'';

Whereas on June 3, 2010, the President publicly stated that ''the [offshore drilling] moratorium has not extended to the shallow waters'';

Whereas on June 8 and June 18, 2010, the Secretary of the Interior issued documents entitled ''Notice to Lessees 05 and 06'' (referred to in this preamble as ''NTL–05'' and ''NTL–06'', respectively) imposing new safety and environmental requirements applicable to the filings for new drilling permits, exploration plans, or development plans;

Whereas as of July 14, 2010, the Secretary of the Interior has not provided adequate guidance and information for the shallow